

# THE CONCORD REVIEW

*I am simply one who loves the past and is diligent in investigating it.*  
K'ung-fu-tzu (551-479 BC) The Analects

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# THE CONCORD REVIEW

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Office of Admissions and Financial Aid

September 15, 2010

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SEX-SELECTIVE ABORTION, FEMALE INFANTICIDE,  
AND THEIR LASTING EFFECTS IN CHINA AND INDIA

Ayana Gray

Introduction

With a consistency comparable only to the world's ability to change daily, humanity undergoes evolution. Politically, economically, and particularly socially, changes throughout the contemporary world are unavoidable and, at best, only understood in part. Yet amidst many changes that threaten the global community's future, demographic changes have caused increasing concern of late. As author Thomas Homer-Dixon notes in his *The Upside of Down*: "to understand the destiny of our global society... it is good to start with global demographics."<sup>1</sup> Populations, most notably in impoverished areas of the world, are expected to grow astronomically in subsequent decades, resulting in an unprecedented youth bulge<sup>2</sup> in many developing countries. China and India—presently two of the world's most densely populated countries—are especially affected by this rapid population increase. Yet despite impending threats of mass starvation and economic

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downfall resulting from widespread poverty and overpopulation, sex-selective abortion and female infanticide are undoubtedly most threatening to populations in China and India.

Though relevant to each other, the practices of female infanticide and sex-selective abortion are not the same. Most principally, sex-selective abortion takes place during gestation, while female infanticide occurs within days or hours of a baby's life. Regardless of the differences, both female infanticide and sex-selective abortion are acts of gendercide, which is the deliberate and usually brutal killing of a person or persons based solely on their gender. In recent years female infanticide and sex-selective abortion have transitioned from a marginal to a critical factor in demographic trends. Presently, China and India face the threat of massively disproportioned male populations due to female infanticide and sex-selective abortion. While following these trends certainly endangers both countries' demographic futures, it is believed that, comparatively, China's population will be more notably affected by female infanticide and sex-selective abortion than India's. Regardless of their varying effects, female infanticide and sex-selective abortion are global issues that demand direct and immediate confrontation; ignored, they certainly have the potential to devastate the global community's demographic foundation.

### The Growth of Female Infanticide and Sex-Selective Abortion

Neither female infanticide nor sex-selective abortion is by any means novel; both are practices whose effects are only beginning to become evident. Nature, from even the earliest eras of human civilization, dictates that naturally more boys are born than girls to balance boy infants' susceptibility to disease and death.<sup>3</sup> Currently, in Northern India and the majority of China, 120 boys are born for each 100 girls in one year.<sup>4</sup> Yet recently, the population ratios of China and India have become increasingly distorted, and to understand this, one must understand the growth of 20th century female infanticide and sex-selective abortion.

Currently, female infanticide and sex-selective abortion can be attributed to the spread of new ideas and concepts, globalization in its most primitive form. As Western influence has increasingly pervaded India and other regions of South Asia, it has also brought a growing demand for the luxuries of a wealthier Western society. Television, introduced in India in 1959,<sup>5</sup> initially was supposed to uplift and unify what was viewed as a diverse nation.<sup>6</sup> As well as unifying, television has proven hugely influential in contemporary India. From shows depicting “Western style” family units, to advertisements showing teenagers adorned in the latest Western fashions, television encourages materialism. With the united presence of the Web, technology allows the impoverished to see what life is like in “rich countries.”<sup>7</sup> As Mira Kamdar notes in her book *Planet India*: “television has made the world outside India nearly visible...it parades the lifestyles of the rich before the eyes of the poor and [opens up] new worlds of possibility.”<sup>8</sup>

In China, innovations, such as the ultrasound machine, have also had a very detrimental effect on its population in this matter. Previously parents could not determine the gender of babies until birth, but now technology “[has] changed everything.”<sup>9</sup> While providing relatively accurate information on the health and status of fetuses during gestation, ultrasounds can also inform parents of the sex of their baby before birth. This access to gender information has caused a surplus of sex-selective abortions throughout China and, to a lesser extent, India.

As increasing Western influence, such as television, opens up possibility and opportunity for many in India, it also increases the practice of female infanticide and sex-selective abortion. Keeping up with modernity and ever-changing Western trends is expensive; as a result, the cost of dowries, for example, has increased astronomically. Large dowries have put families in debt, an occurrence that seems very unwelcome in many families. Traditionally, after marriage, the daughter moves into her new husband’s family, adding no further value or assistance to her maiden one. Expressions, such as “watering your neighbor’s lawn” and “raising flowers in someone else’s garden”<sup>10</sup> have become common among families



who do not want girls, and that viewpoint, though thoroughly reproachable, is unfortunately comprehensible. Sex-selective abortion has not been the most popular form of gendercide in India—female infanticide has, because it costs nothing. Female infanticide occurs in areas where families cannot afford to invest in daughters, and as poverty gets worse, the practice is only expected to increase in subsequent years.

## India

Female Infanticide [...**bold** emphasis applied by the editor]

With a population of more than 1 billion,<sup>11</sup> of which 20 percent have been deemed undernourished and impoverished,<sup>12</sup> it comes as no surprise that India is often referred to as the “heartland” of female infanticide.<sup>13</sup> Understandably, poverty is not only a leading dynamic in the practice of female infanticide, but also a factor that, with India’s current demography, promises to make its eradication difficult. Only an estimated 100 girls are born in some regions of India for every 124 boys,<sup>14</sup> and the number of female births continues to decrease annually. Additionally, the Azad India Foundation reports that in a 15-year period, over 5 million girls have “disappeared” from the population, **presumably killed**, with no signs of future replacement in coming years.<sup>15</sup> Globally, a reported 50 million to 60 million girls have also “disappeared,” presumably from female infanticide.<sup>16</sup> These figures have finally caught the attention of the Indian government. Yet despite attempts to remedy what is certainly recognized as a serious problem, India as a country faces an internal dynamic that makes change in the practices of female infanticide and sex-selective abortion there more difficult to eradicate than in China: Indian culture.

Though inconceivable to many Western societies, female infanticide in many developing countries is not reported or cited because it is viewed as a normal occurrence. Families, especially impoverished ones, **kill their baby girls** as a means not only to spare them a life of misery and starvation, but also to save their

families from further impoverishment with another mouth to feed. Boys are seen as better future laborers,<sup>17</sup> a quality desperately needed in much of lower-class India, and are placed at a higher value than girls despite the fact that educated women have proven twice as likely to receive jobs that better sustain a family.<sup>18</sup> Additionally, women are seen as little more than a monetary burden,<sup>19</sup> creating a desire to avoid giving birth to daughters at all costs. The accumulated costs of saris, ritualistic ear piercing, and, most crucially, a dowry, is an estimated US \$35,000 per girl; the average family in India only acquires about US \$3,500 in a single year's income.<sup>20</sup> These exorbitant costs make girls in India especially unwanted and have caused **millions of families to simply kill their daughters in infancy** rather than fall into bankruptcy in an attempt to support them. Though illegal, dowries are still largely a part of Indian tradition. Families unable to pay these costs often fall into servitude of the husband's family, and sometimes in a worst case scenario—if a debt cannot be paid or the woman is unable to produce a son—**brides are set on fire in an occurrence called a "bride burning."**<sup>21</sup> Currently in India, these horrendous events occur once every two hours.<sup>22</sup>

Hinduism in India, while not necessarily a direct cause, has certainly contributed in part to female infanticide and sex-selective abortion. Emphasis on male dominance and priority—established in eras as ancient as the Vedic and Epic ages—has placed women at a level markedly lower than their husbands.<sup>23</sup> One archaic code even suggests that wives should worship their husbands as gods.<sup>24</sup> Additionally, the caste system, an ageless and integral part of Indian culture, has increased the degradation of Indian women, especially those who are impoverished.

Families of lower class India are unwilling to fall into bankruptcy for their daughters, and so, in what is viewed as a means of survival, **they kill them at birth, often through smothering or poison.** Though the Indian government has already taken preliminary measures in preventing it—such as making dowries illegal—rates of infanticide still increase with little signs of impending change.

## Sex-Selective Abortion

Sex-selective abortion in India has slightly different dynamics than female infanticide: technology. Used mainly to determine the gender of a baby during gestation, ultrasounds—as well as sex-selective abortion—are notably innovations in comparison to archaic female infanticide. Developing mostly in the late 20th century, sex-selective abortions had also been a luxury limited to those who can afford both the ultrasound checkup and the actual abortion procedure.<sup>25</sup> This had caused rates of sex-selective abortion to be markedly lower than those of female infanticide.

Aided by globalization and the spread of technology, sex-selective abortion has now changed from a luxury to a rather accessible commodity for most of the Indian population; ultrasound checkups cost an estimated US \$12.<sup>26</sup> Gradually permeating rural areas, portable ultrasounds and doctors willing to practice abortions make ultrasound checkups and sex-selective abortion attainable to even the most impoverished of India. Reportedly 11.2 million illegal abortions occur in India yearly.<sup>27</sup> Though realistically they cannot afford it, the lower class of India are investing in these procedures for a reason no better stated than in an advertisement for abortion: “Pay five thousand rupees today (US \$110), and save fifty thousand rupees tomorrow.”<sup>28</sup>

With increased accessibility in more rural areas of India, sex-selective abortion, in coming years, could easily replace the practice of female infanticide. It is a disturbing notion; women could become pregnant with hundreds of girls and abort them before giving birth to the one desired boy. Already in one hospital in Punjab, India, it was discovered that the only girls born in one year had either been mistaken for boys or had a twin.<sup>29</sup> The growing use of ultrasounds and the practice of sex-selective abortions not only enables the **killing of millions of girls**, but they can also prevent even the “accidental” births that have been keeping sex ratios from becoming a complete disaster. Unquestionably, sex-selective abortion’s trends are looking no more promising in the future.

## The Future of India

Rates of female infanticide and sex-selective abortion in India have increased in recent years. They are only expected to continue in the next few years, and they are more influenced by globalization than by tradition in Indian culture. More than anything, female infanticide (**killing**) is a result of the low status, accorded by men and the culture, to women in many parts of the world, and in coming years soon will badly skew the demographic trends in India.<sup>30</sup> With a lack of females, brides will have to be imported from more impoverished areas of India, effectively breaking the stringent caste system upheld so vigorously by the predominantly Hindu country.<sup>31</sup> Birthrates, given the lack of marriageable women able to have children, are expected to decrease. In a matter of decades, even as few as 20 years, India's demography will be completely altered. A 49 percent population change is expected to occur between 2009 and 2050,<sup>32</sup> at which time the population of India is expected to be 1,747,969,000 people.<sup>33</sup>

## China

### Female Infanticide

Though similar in demographics, China is, historically, very different from much of India, especially now. Female infanticide, first and foremost, has been much more visibly evident in China than in India, as censuses recorded dangerously unbalanced gender ratios in both the 1920s and 1930s.<sup>34</sup> Additional hard times in the country, such as the era of the Qing Dynasty, **drove families to kill their girls** because sons were deemed a necessity for survival while girls were expendable.<sup>35</sup> In recent years, with a population of around 1,300,000,000 people,<sup>36</sup> 21 infants die for every thousand births in the country.<sup>37</sup> In some Chinese provinces, male to female ratios are 130 to 100.<sup>38</sup> These numbers are much more unstable than India's and, viewed comparatively, make China's

demographic trends look much more dangerous for its future. Despite these differences, China, like its counterpart, places a notably traditional preference for males that has been harnessed in modern times specifically through Confucianism.

An important influence throughout eras of China's history, Confucianism is, essentially, a system of ethics.<sup>39</sup> Developed by Confucius circa 500 B.C., respect for one's social superiors is heavily stressed; fathers and sons are recognized as the infallible heads of the basic family unit.<sup>40</sup> Obedience and respect were of the utmost importance, and "knowing one's place" was essential to the true embrace of Confucianism.<sup>41</sup> Women, especially, were expected to be passive towards the male figures in their family and there were in fact specific instructions from *The Analects*<sup>42</sup> dictating their role in the family called "The Three Submissions":

1. Submit to parents in girlhood
2. Submit to husband in marriage
3. Submit to son in widowhood

—*The Analects*, Confucius<sup>43</sup>

Similar to Indian culture, the responsibility of caretaking for the old falls on male children, especially in rural Chinese society.<sup>44</sup> Though the dowry "system" is not quite as commonly practiced in contemporary China, it does exist. Indeed, the factor most influential in female infanticide's steady increase in China is not cultural, but governmental, and a relatively new concept.

In 1979, as the country began its emergence from what would later be referred to as the Cultural Revolution,<sup>45</sup> the government implemented a policy that would devastate the lives of millions of Chinese girls: the infamous One-Child policy.<sup>46</sup> Appropriately named, China's One-Child policy encourages late marriage and child-bearing. Families in urban areas, which currently make up around 46 percent of the country's population<sup>47</sup>—as well as those who are government-employed—are specifically prohibited from having more than one child unless both the male and female parents are only children.<sup>48</sup> Infringement of the policy, though evident in census records, can result in denial of

some civil services.<sup>49</sup> Those who abide by the law gain access to better educational opportunities, and preferential homes.<sup>50</sup> Additionally, since most urban Chinese families are employed by the government, there is an understood obedience among many of the Chinese people. According to the Chinese Academy of Social Science (CASS), there will be 30 million to 40 million more men aged 19 and younger than women by 2020. Some reports estimate that the One-Child policy has prevented the births of nearly 400 million babies throughout China.<sup>51</sup> The shocking truth of just **how cruel female infanticide is** in China can be no better embodied than in a narrative by Chinese writer Xinran Xue, in which she visits a home immediately following an infanticide:

We had scarcely sat down in the kitchen when we heard a moan of pain from the bedroom next door...there was a low sob, and then a man's gruff voice said accusingly 'Useless thing!'...I thought I heard a slight movement in the slops pail behind me...to my horror, I saw a tiny foot poking out of the pail...'Don't move,' [the midwife said] 'you can't save it, it's too late...it's not a child...it's a girl baby [and] around these parts...girl babies don't count.'<sup>52</sup>

Xinran Xue's accounts do not even begin to describe the real **atrocities of female infanticide** in provinces of China. Reports of female fetuses, "found in drains or dug from wells or floating in lakes, or eaten by dogs," have only increased in recent years.<sup>53</sup>

Undoubtedly, the Chinese implementation of the One-Child policy has affected the lives of **hundreds of millions of girls** throughout China. Though somewhat successful in curtailing populations, particularly in urban areas,<sup>54</sup> China's One-Child policy has created not one but two problems: fewer marriageable women and a surplus of the elderly population.<sup>55</sup> It was this generation, born after implementation of the One-Child policy, that has served as the working class of China. As they have aged, China finds itself within its targeted population goal but without the future population to sustain the country economically.

With a deeply-entrenched cultural stress on the importance of having sons over daughters fueled by Confucianism, families forced to have only one child increasingly desire to make that one child a boy. It is not only because there is a better chance of suc-

cess for him in society, but also because it is a return investment of sorts. While girls, as in India, will marry and earn income for her new husband's family, a son will be able to care for his parents in old age. In a society where "social security" is nonexistent, a son is seen as the support of the family. This belief is especially strong in rural China.<sup>56</sup>

### Sex-Selective Abortion

Yet China has more serious problems than social security for its senior citizens. Currently, the number of women born in China is 20 percent lower than needed to replace the current population.<sup>57</sup> As rates of female infanticide and sex-selective abortion rise, so do the rates of crime and suicide among young women. The earliest results of a disproportioned population are beginning to appear, and they are very bad for the society. Men, frustrated at being considered 'guangans'<sup>58</sup> as they grow older are resorting to rape, kidnapping, and blunt violence to attain a wife, start a family, and ultimately, advance in a society that requires it.<sup>59</sup> Additionally, guilt-ridden at the realization that they have **killed their children**, or simply disappointed that they have been unable to produce a son, more and more Chinese women of the reproductive age are committing suicide in distress,<sup>60</sup> a dynamic in itself that could hugely alter the country's future population.

### The Future of China

Organizations, petitions, even public protest of female infanticide and gender discrimination in China have been implemented, especially in recent years. The greatest efforts, however, have been in a global call for China's One-Child policy to be eradicated, or at least rectified to allow more than one child in both urban and rural areas of the country. Despite the global community's disapproval, however, China's government, as of

2002, has announced that it will be adamant about maintaining the policy,<sup>61</sup> at least for the next few decades.<sup>62</sup> According to Chinese Prime Minister Zhang Weiquing, suspending the One-Child policy, even temporarily, would cause “serious problems and add social and economic pressure [to the entire country],”<sup>63</sup> and the government has made it clear that the One-Child policy will not be terminated in the near future because it is doing exactly what it was designed to: limit the social and economic consequences of rapid growth in China. Until the government feels that the One-Child policy ceases to do that, it is unlikely that anything will be done to amend it. Unfortunately, by that time, it may be too late for China’s population. By 2050, China’s expected population, for both males and females, will be around 1.5 billion, with an expected increase of 8 percent from 2009.<sup>64</sup>

## Recommendations

As a prolonged and global epidemic, it is feared by many that female infanticide and sex-selective abortion will not be granted the appropriate attention until their effects become irreparable. In China and India, it is in both countries’ best interests not only to recognize and immediately confront each issue, but also to work within their own governments to formulate a plausible solution that tackles these issues directly. When they don’t do that, people “shrug” and do not take the problem seriously,<sup>65</sup> and public participation is vital to the eradication of both female infanticide and sex-selective abortion. Undoubtedly, there has to be official recognition, especially in China, that the desired small family sizes are increasingly **achieved by killing the girls.**<sup>66</sup>

## India

For India, a country more influenced by culture and tradition, the eradication of female infanticide and sex-selective abor-



tion will be difficult, but certainly not impossible. Poverty should, first and foremost, be recognized by the Indian government as the leading dynamic in the spread of sex-selective abortion and female infanticide; it has to “stop being regarded as a sad but inescapable aspect of the human condition.”<sup>67</sup> The fact is as author Shashi Tharoor aptly notes in *The Elephant, The Tiger and the Cell Phone*, that “poverty has a female face.”<sup>68</sup> With the prospect of a daughter as a monetary contributor instead of a burden, families will place more value on their girl children and, it may be hoped, **stop killing them**. India’s government needs to work to amend this so that, instead, girls become the face of the country’s progress. Micro-financing opportunities allowing women the chance to earn an income gives them the opportunity to sustain themselves and live independently, and should be implemented. It will take more than simply throwing money into the hands of poor women; it will take education.<sup>69</sup>

If India wishes to transition into a competitive, developed country, it must first drastically change its national attitude concerning women’s education. Currently, the female literary rate in comparison to males’ 76 percent is only 54 percent.<sup>70</sup> It has been proven that educated women are directly responsible for economic growth because they provide increases in countries’ working force. Education needs to become a priority throughout the country if eradication of female infanticide and sex-selective abortion is to occur. Micro financing, jobs, and independence are worthless without the education to make use of them. When girls are educated, however, it not only educates a family, but benefits a society.<sup>71</sup> As author Shashi Tharoor remarks: “India must educate itself—achieve one hundred percent literacy nationwide—if [it is] to fulfill the aspirations it has begun to dare to articulate, and rise to the development challenges of the twenty-first century.”<sup>72</sup> Already, proof of education’s success among women is becoming evident in various regions of India. An exemplary case has been found in Gudunvencheri, where a 20-year old woman Sushila reported that in her small village, all the girls had jobs. They could afford their own dowries, and they got respect.<sup>73</sup> Furthermore, reinstatement of policies, especially those that provide financial incentives for

families with daughters, needs to be immediate; there are several, most created in 1990s that would prove especially beneficial. The “Jayalaitha Protection Scheme for the Girl Child,” created in 1992 by the Chief Minister of the Indian state Tamil Nadu, provided that poor families with one or two girls and no sons, would be eligible for money, if at least one parent was sterilized.<sup>74</sup> In addition, the government opened bank accounts for girls kept alive that varied from 15,000 to 22,000 rupees at childhood.<sup>75</sup> The “Cradle Babies Scheme,” created around the same time, asked families to, rather than kill their female infants, leave them in cradles set up in various areas by government healthcare centers.<sup>76</sup> The Sex-Selective Abortion Law and Maternal Healthcare Law of 1994 both tried to end sex-selective abortion by officially prohibiting use of medical technology to determine the sex of fetuses in India.<sup>77</sup> Most recently, in 2007, Joe Biden and Richard Lugar introduced the International Violence Against Women Act. It provides US \$175 million of foreign aid to try to prevent **“honor” killings, bride burnings, genital cutting [female genital mutilation], attacks with acid,<sup>78</sup> mass rapes, and domestic violence.**<sup>79</sup>

India’s government has, undoubtedly, made efforts to eradicate the practices of female infanticide and sex-selective abortion, but it needs more structure if it wants evident results. First, it needs to be held responsible for not only passing laws to outlaw the crimes, but also for enforcing them.<sup>80</sup> In addition, targeted dates by which time balanced sex ratios should be attained provides the government with long-term goals that keep it focused.<sup>81</sup>

The government is not the only force in India with the power to take a prominent stand against the practices of female infanticide and sex-selective abortion. Notably, an organization named the Democratic Women’s Association (DWA) campaigns in India’s states specifically against sex-selective abortion with the use of informative pamphlets, attention-drawing demonstrations, and public speeches about awareness.<sup>82</sup> Organizations like the DWA should be supported and encouraged with foreign aid.

Finally and most importantly, the government of India needs to develop an efficient social security system for its elderly.

Currently, caretaking of senior citizens is a responsibility allotted to the sons of Indian families. Much of the basis behind female infanticide and sex-selective abortion practice comes from Indian parents' innate fear of being abandoned and alone in old age. With a government option—not mandatory, but available to all—there is substantially less pressure on families to keep only their boys alive.

Female infanticide in India certainly has the power to cause irrevocable damage to the country as a whole, yet in contrast, its eradication can prove extremely beneficial. In addition to emphasizing the value of women, thereby reducing rates of infanticide, recommendations contributing to the eradication of female infanticide will help the country as well. While it does allow for the empowerment of women, literacy, for example, serves as a vital component in developing national identity and active citizenship.<sup>83</sup> Mass poverty, viewed as an immovable hindrance in India's economic progress, can be reduced with education: schooling translates directly to increased agricultural productivity,<sup>84</sup> which can in turn reduce malnutrition. It appears eradicating female infanticide not only eliminates national disadvantages and potential problems, but it also adds benefits and advantages that could propel India into a better future for all who live there.

## China

The issues of female infanticide and sex-selective abortion in China are more government-induced than in India, making it significantly more difficult to solve. Of the many contributing dynamics, principally it is the Chinese government's One-Child policy that holds the most responsibility for female infanticide and sex-selective abortion's growth. Pressured to make their one allowed child a boy, many urban families are **killing thousands** of girl babies, despite laws that prohibit abortions based solely on gender. One report noted that **400 million children** have been killed because of the One-Child policy.<sup>85</sup> Rectification, such as allowing two children per family unit as opposed to one in both

urban and rural families, would relieve some of the pressure families have to make their only child a boy.

Educational barriers in China are not as severe as India's; however, the benefits of education can never be overstated. Little more than a century ago, the government of China's Qing Dynasty had approved a national system of women's education;<sup>86</sup> today the literacy rate for both males and females between ages 15 and 24 is 99 percent.<sup>87</sup>

As women are further educated and gain access to careers, they become socially and economically valued and less susceptible to neglect and death, especially in rural China. As Chinese nationalist and political activist Qui Jin pertinently remarked: "women need to give up trying to please men" [and ultimately learn to make progress on their own].<sup>88</sup>

As in India, the Chinese government should either completely or partially reconstruct its social security policies to offset strains put on the boy child in families. Clearly, from the consistent stress and responsibility still placed on Chinese boys in their families, there is not a strong enough social security system to support China's growing elderly population. A policy reform, allotting senior citizens of China a fixed amount of money specifically for their healthcare, should alleviate the need to have only boys, and ultimately help to balance the increasingly disproportionate gender ratio of one of the potentially most influential countries in the world.

China has the potential to be a leading power globally in coming years, but only with gender balance. Undoubtedly, much of this will depend on its willingness to review the One-Child policy which, according to demographer Nicholas Eberstadt, has been "a disastrous mistake...[and whose] consequences are already being felt."<sup>89</sup> A strong rising generation of well-educated males and females is crucial to the country's success and progress and is impossible to attain without serious reform. Failure to recognize and attend to the massive gender-ratio distortion China faces in subsequent years promises only economic and social damage that could take decades to reverse.

## South Korea's Optimistic New Message for China and India

Both female infanticide and sex-selective abortion are deeply-entrenched problems, and it must be understood that positive results even after their eradication will not be instantaneous. The longer the global community prolongs action against female infanticide and sex-selective abortion, however, the more severe their effects become. Yet in spite of the seemingly dismal predictions for two of the most densely populated countries' futures, there is hope for change. Female infanticide and sex-selective abortion are epidemics that clearly have the potential to be eradicated; no country better exemplifies that fact than South Korea. A country once in the midst of many of the crises during the 1970s and 1980s that both China and India now face, South Korea's sex ratios went from "bad" to almost "normal" by 1990.<sup>90</sup>

South Korea's reform began initially in 1962, with an establishment of a national family planning campaign that sought to control unwanted births.<sup>91</sup> Contraceptives, made available to the entire population, curbed population sizes, but did not solve the gender ratio skewing problems. The country then began a widespread promotion of a "two-child" family plan, a strategy emphasizing the benefits of a family with more than one child. "Sons or daughters, let's have two and raise them well!" a 1974 promotional advertisement read.<sup>92</sup> Additionally, incentives made specifically for families with two children, encouraged many in both rural and urban parts of South Korea, to forsake the older trend of female infanticide for a newer and more practical family structure. Evidently, culture changed; female education, anti-discrimination, and equal rights made son preference seem old fashioned.<sup>93</sup>

Today, South Korea boasts an outstanding female to male ratio; its gendercide rate has been virtually reversed in only a decade. Literacy rates are high, there is economic strength, and it has become a much more unified country after reform. Undoubt-

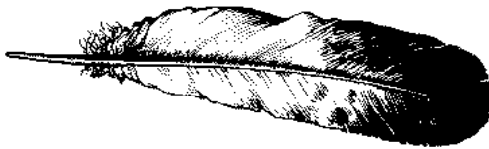
edly, much of this success can be credited to Korea's willingness to recognize the danger of its demographic trends. If China and India, even modestly, emulate South Korea in attempts to eradicate and prevent female infanticide and sex-selective abortion, results certainly have the potential to be equally beneficial.

## Conclusion

Infanticide and sex-selective abortion have pervaded far too many societies in the history of mankind and,<sup>94</sup> unfortunately, have now grown from simply a preference for sons to hatred of daughters.<sup>95</sup> The intentional **killings** of infant girls and fetuses,<sup>96</sup> sex-selective abortion and female infanticide are both epidemics that, whether or not fully recognized or understood, threaten the entire global community's future stability. The progress of China and India, both socially and economically, depends heavily on strong rising generations, which are impossible to attain with inequality in numbers between the genders. In allowing its continuity and spread to go unimpeded for so long, sex-selective abortion and female infanticide have caused the world to become dangerously susceptible to population changes that could take decades to reverse. Already violence and crime rates, especially in China, have risen with the decrease of the female population; men are clearly frustrated at the inability to find wives and start families. The countries bordering China and India—such as Nepal and Bangladesh—are especially susceptible to increased rates of kidnapping, sex-trafficking, and sexual violence, as male populations grow increasingly sexually frustrated.<sup>97</sup>

China and India face the same dilemma of massively disproportioned populations due to female infanticide, but it is expected to be China whose population will be more devastatingly skewed because of its infamous One-Child Policy. America and its allies—specifically, countries disproving of policies similar to China's One-Child policy—need to make a united stand not necessarily against China or India, but against female infanticide,

and in support of those countries' young girls and infants. Indeed, nothing better affirms our duty than a statement made by Nicholas Kristof and Sheryl WuDunn in their book *Half the Sky*: "If we believe firmly in certain values, such as the equality of all humans...then we should not be afraid to stand up for them...we need not accept that discrimination is an intractable element of any society."<sup>98</sup> A call for a global stand against female infanticide does not suggest that the United States, or any other country, should interfere with India, China, or any other country's affairs, but there should be representation for the millions of girls facing both ancient prejudices against them and the modern preferences for sons.<sup>99</sup> Throughout the developing world, they now lack such protection. It is the choice of the global community to decide whether female infanticide and the changes it will surely bring are of enough importance to receive international attention, but once such a decision is made, female infanticide may take years even to partially eradicate. But as an article in the *Economist* pointed out this year: "Mao Zedong said 'women hold up half the sky', [but if] the world [does not] **prevent gendercide**...the sky [will soon] come crashing down."<sup>100</sup>



## Notes

- <sup>1</sup> Thomas Homer Dixon, The Upside of Down (Washington: Island Press, 2005) p. 61
- <sup>2</sup> Youth Bulge: A concept defined by author Thomas Homer Dixon and demographer Eric Zuehike as the expectedly huge impending increase of youth in developing countries in subsequent decades.
- <sup>3</sup> “Gendercide,” The Economist Newspaper Ltd. (2010) p. 13
- <sup>4</sup> *Ibid.*, p. 13
- <sup>5</sup> Mira Kamdar, Planet India (New York: Scribner Press, 2007) p. 52
- <sup>6</sup> *Ibid.*, p. 52
- <sup>7</sup> Homer Dixon, p. 65
- <sup>8</sup> Kamdar, p. 53
- <sup>9</sup> “The Worldwide War on Baby Girls,” The Economist Newspaper Ltd. (2010) p. 77
- <sup>10</sup> Kamdar, p. 250
- <sup>11</sup> Population Reference Bureau, Date by Geography>India>Summary, [http://www.prb.org?Datafinder/Geography/Summary.aspx?region=140&region\\_type=2](http://www.prb.org?Datafinder/Geography/Summary.aspx?region=140&region_type=2)
- <sup>12</sup> *Ibid.*
- <sup>13</sup> Adam Jones, Case Study: Female Infanticide, [http://www.gendercide.org/case\\_infanticide.html](http://www.gendercide.org/case_infanticide.html)
- <sup>14</sup> “Gendercide,” p. 13
- <sup>15</sup> Azad India Foundation, Female Infanticide in India, <http://www.azadindia.org/social-issues/femaleinfanticideinindia.html>
- <sup>16</sup> Kamdar, p. 250
- <sup>17</sup> “Gendercide,” p. 13
- <sup>18</sup> Kata Fustos, Despite Wide-Ranging Benefits, Girls’ Education and Empowerment Overlooked in Developing Countries, <http://www.prb.org/Articles/2010/girlseducation.aspx>
- <sup>19</sup> Kamdar, p. 250
- <sup>20</sup> Jones
- <sup>21</sup> Bride Burning: A phenomenon that reportedly occurs once every two hours in areas of India, “bride burning” is the systematic murder of India brides unable to produce adequate dowries or produce sons. **Often, the burning is done by the male, and gasoline will be doused onto the woman and she is then set on fire by match or lighter.**



- <sup>22</sup> Nicholas Kristof and Sheryl WuDunn, Half the Sky (New York: Random House, 2009) Introduction, p. xiv
- <sup>23</sup> Peter Stearns and Michael Adas; Stuart B. Gilbert; Marc Jacob Schwartz, World Civilizations: The Global Experience 4th ed. (New York: Pearson Education, Inc., 2006) p. 61
- <sup>24</sup> Ibid., p. 61
- <sup>25</sup> O.P. Sharma and Carl Haub, Sex Ratio at Birth Begins to Improve in India, <http://www.prg.org/Articles/2008/indiasexratio.aspx>
- <sup>26</sup> "Gendercide," p. 13
- <sup>27</sup> Uma Girish, For India's Daughters, A Dark Birth Day: Infanticide and Sex-Selective Abortions Yield A More Skewed Gender Ratio, <http://www.csmonitor.com/2005/0209/p11s01-wsoc.html>
- <sup>28</sup> "The Worldwide War on Baby Girls," p. 77
- <sup>29</sup> Ibid., p. 77
- <sup>30</sup> Jones
- <sup>31</sup> "The Worldwide War on Baby Girls," p. 80
- <sup>32</sup> Population Reference Bureau, India
- <sup>33</sup> Ibid.
- <sup>34</sup> Indian Journal of Medical Ethics, The Impact of China's One Child Policy, <http://www.issuesinmedicalethics.org/143ss106.html>
- <sup>35</sup> Patricia Buckley Ebrey, Cambridge Illustrated History: China (New York: Cambridge University Press, Reprinted, 1997)
- <sup>36</sup> Population Reference Bureau, Data by Geography>China>Summary [http://www.orb.org/Datafinder/Geography/Summary.aspx?region=164&region\\_type=2](http://www.orb.org/Datafinder/Geography/Summary.aspx?region=164&region_type=2)
- <sup>37</sup> Ibid.
- <sup>38</sup> "Gendercide," p. 13
- <sup>39</sup> Peter Stearns, World Civilizations: The Global Experience, 4th ed. (New York: Pearson Education, Inc., 2006) p. 41
- <sup>40</sup> Eileen H. Tamura, Linda K. Menton, Noren W. Lush; Francis K.C. Tsui, China: Understanding its Past (Honolulu: University of Hawaii Press, 1998)
- <sup>41</sup> Ibid.
- <sup>42</sup> Viewed as the ultimate guide to Confucianism, The Analects are a collection of sayings and advices taught by Confucius as recopied by his students.
- <sup>43</sup> The Analects in Tamura, et al., p. 47
- <sup>44</sup> Daisy Sindelar, China: A Future With a Shortage of Brides, An Abundance of Elderly (Part 2) <http://www.rferl.org/content/article/1056742.html>

<sup>45</sup> Cultural Revolution: led by Mao Zedong, the Cultural Revolution represented a time within China of drastic and terrible “reform” (and killing) of the country’s intellectual class.

<sup>46</sup> Indian Journal of Medical Ethics, The Impact of China’s One Child Policy July 2006, <http://www.issuesinmedicalethics.org/143ss106.html> (accessed May 17, 2010)

<sup>47</sup> Population Reference Bureau, India

<sup>48</sup> Indian Journal of Medical Ethics

<sup>49</sup> Ibid.

<sup>50</sup> Penny Kane and Ching Y. Choi, China’s One-Child Policy, <http://www.ncbi.nlm.nih.gov.pmc.articies/PMC1116910>

<sup>51</sup> CNN World Corporation, Study: China Faces 24m Bride Shortage by 2010, <http://www.cnn.com/2010/WORLD/asiapcf/01/11/china.bride.shortage/index.html>

<sup>52</sup> “The Worldwide War on Baby Girls,” p. 77

<sup>53</sup> Ibid., p. 77

<sup>54</sup> Kane and Choi

<sup>55</sup> Sindelar

<sup>56</sup> Jones

<sup>57</sup> “Gendercide,” p. 13

<sup>58</sup> Guangan: meaning “bare branch” in Chinese, the term ‘guangan’ is used to describe young Chinese men who have not married and begun families.

<sup>59</sup> “Gendercide,” p. 13

<sup>60</sup> “The Worldwide War on Baby Girls,” p. 80

<sup>61</sup> Indian Journal of Medical Ethics

<sup>62</sup> CNN World Corporation

<sup>63</sup> Ibid.

<sup>64</sup> Population Reference Bureau, China

<sup>65</sup> Kristof, p. xiv

<sup>66</sup> Azad India Foundation

<sup>67</sup> Shashi Tharoor, The Elephant, The Tiger, and the Cell Phone (New York: Arcade Publishing, Inc., 1956) p. 417

<sup>68</sup> Ibid., p. 418

<sup>69</sup> Ibid., p. 418

<sup>70</sup> Kamdar, p. 250

<sup>71</sup> Tharoor, pp. 141-142

<sup>72</sup> Ibid., p. 143

<sup>73</sup> Ibid., p. 418

<sup>74</sup> Lisa M Woolf, Women and Human Rights: Female Infanticide, <http://www.webster.edu/~woolfm/femaleinfanticide.html>

<sup>75</sup> The Christian Science Monitor, Infanticide and Sex-Selective Abortion Yield A More Skewed Gender Ratio, <http://www.csmonitor.com/2005/0529/p11s01-wosc.html>

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> **Acid attacks—refers to the practice—often coinciding with bride burning—in which husbands throw acid on to the faces of women to burn their skin and bones as a form of punishment for insubordination.**

<sup>79</sup> Kristof, p. 67

<sup>80</sup> Ibid., p. 126

<sup>81</sup> Azad India Foundation

<sup>82</sup> Ranjit Devrak, A Murderous Arithmetic, <http://www.indiatogether.org/2003/jul/wom-girls.htm>

<sup>83</sup> Tharoor, p. 140

<sup>84</sup> Ibid., p. 140

<sup>85</sup> CNN World Corporation, Study

<sup>86</sup> Ebrey, p. 279

<sup>87</sup> Population Reference Bureau

<sup>88</sup> Ebrey, p. 325

<sup>89</sup> Nicholas Eberstadt, China's Future and Its One-Child Policy September 19, 2007, <http://www.aei.org/issue26835>

<sup>90</sup> Sharma and Haub

<sup>91</sup> Carl Haub, Did South Korea's Population Policy Work Too Well?, <http://www.prb.org/Articles/2010/koreafertility.aspx>

<sup>92</sup> Ibid.

<sup>93</sup> "Gendercide," p. 13

<sup>94</sup> Larry S. Milner, A Brief History of Infanticide, <http://www.infanticide.org/history.htm>

<sup>95</sup> Azad India Foundation

<sup>96</sup> Woolf

<sup>97</sup> Kamdar, p. 252

<sup>98</sup> Kristof, p. 207

<sup>99</sup> "Gendercide," p. 13

<sup>100</sup> "The Worldwide War on Baby Girls," p. 77

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Editor's Addition:

*The New Criterion*  
 May 2010, p. 3  
 Notes & Comments

...For our second observation, let us turn to the manly, "judgmental" policy promulgated by Sir Charles Napier, the British Commander in India in the early nineteenth century. Told that immolating widows on the funeral pyres of their husbands was a cherished local custom (*suttee*), Napier said "Very well. We also have a custom: when men burn women alive, we tie a rope around their necks and we hang them. Build your funeral pyre. Beside it, my carpenters will build a gallows. You may follow your custom. And then we will follow ours."

[WF asks: Would it cut down on "bride burnings" if there were a few more "groom burnings" in retaliation?....]

“UNTIL THEY DIE”: THE MORALITY AND THE DECISIONS  
IN THE TUSKEGEE SYPHILIS EXPERIMENT

Isabel Parkey

In 1932, in Macon County, Alabama, a group of 600 men—399 with syphilis, 201 without—all poor and black, began their participation in an experiment by the United States Public Health Service. The executives in charge wanted to improve the drugs for the treatment of syphilis, and to develop better methods of treating poor blacks in the South. They proposed to do this by examining the effects of “untreated syphilis in the Negro male” over a period of time.<sup>1</sup> At first, the experiment was only supposed to extend for six to eight months, but some of the doctors involved found this time-frame inadequate, and they extended it for 40 years. Evidence shows that none of the patients with syphilis was told about the goals of the study, or even that they had syphilis. In fact not very many of them knew what syphilis was or how it was contracted. The Tuskegee experiment started out as a good thing for the community, and the health of many poor, southern blacks, but because of economic pressure, unethical doctors—who put scientific goals before the health of their patients—and the racial environment at the time, the 600 people participating were sacrificed for the cause of helping others, and what started with

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good intentions (but was never actually moral), turned into one of the most famous examples of medical and ethnic mistreatment in history.

### Why Macon County?

The doctors who initiated the Tuskegee experiment probably chose Macon County as the site because of the large number of poor, uneducated black people in the county. In 1930, Macon County had around 27,000 residents and 82 percent were black.<sup>2</sup> Many of the blacks living there at the time were sharecroppers or workers on plantations. In 1932, 23 out of every 10,000 white adults in Macon County were illiterate, as opposed to 227 out of every 10,000 black adults.<sup>3</sup>

Another reason the doctors chose Macon County was the county's unusually high syphilis rate. At the time of the experiment, Macon County had the nation's highest syphilis rate.<sup>4</sup> In the U.S., in the late 1920s, 4.2 out of every 1,000 whites and 7.2 out of every 1,000 blacks, had syphilis—almost twice as many. In an average of six southern counties, 195 out of every 1,000 people had syphilis. Macon County had 360 out of every 1,000.<sup>5</sup>

A reason for this was the very limited public health services available. This, together with the fact that most of the residents of the county could not afford medical care, made an experiment with “free treatment” seem like a very good deal to the participants. On the grounds of the Tuskegee Institute—an all-black school, founded by Booker T. Washington and the Julius Rosenwald Fund, where the tests and procedures were done—there were two hospitals, one of which had no outpatient clinic and the other of which primarily served the wealthier white community, not the poor blacks. In the early 1930s, Macon County had 15 white and one black practicing private physicians.<sup>6</sup> Macon County did not have a health department until 1928, and because doctors were only seen in emergencies, syphilis in the area went undiagnosed and untreated. The health department was organized only after

one wealthy plantation owner wanted to know why many of his employees' children were stillborns. The health department admitted that it did not reach very many rural blacks.<sup>7</sup>

### Early 20th Century Black Medical Care

The lack of health care for blacks in Macon County reflected conditions for blacks across the South. Blacks were treated as almost a different species from whites. In the late 1800s and early 1900s, many different opinions existed on the treatment of black people, but one thing that most people agreed on was that medically, blacks were different, and because doctors supported that idea, it was widely accepted.<sup>8</sup> Two southern doctors at the time even went so far as to invent exclusively black diseases.<sup>9</sup>

Although most private doctors in the early 1900s blamed African Americans for their own poor health, those who worked in hospitals or public service agents who interacted with blacks on a regular basis became more informed about the actual causes of illness and death.<sup>10</sup> Many private doctors placed all the blame for contracting the diseases on the blacks—blaming *them* for their poverty, poor living conditions, lack of medical treatment, and unhygienic ways. As James Jones noted in his book *Bad Blood*, “attributing failure to the irresponsible victim was much easier on the profession’s pride, and permitted physicians to exercise a certain self-righteousness in their pronouncements.”<sup>11</sup> Jones goes on to say, “the health of black people in Macon County was so poor that practically everyone suffered from some illness.”<sup>12</sup> Many directors at hospitals and other treatment centers closed their doors to blacks, and private physicians were too expensive, so most blacks were forced to turn to health clinics with inexpensive or free healthcare.<sup>13</sup>

With such bad health services available to blacks, a disease like syphilis, which could easily be kept under control with adequate care, became extremely widespread. According to Roanne Edwards in “Tuskegee Syphilis Experiment,” “most public health

service doctors ascribed high syphilis rates among blacks to sexual promiscuity and ignorance. They never considered that African Americans were systematically denied medical services.”<sup>14</sup> In new social hygiene plans put out by state and federal governments at the time, blacks were mostly overlooked, which seems surprising because physicians had been warning the public that syphilis could exterminate the black population.<sup>15</sup> At the time, syphilis was known as the quintessential black affliction,<sup>16</sup> and one doctor called blacks “a notoriously syphilis-soaked race.”<sup>17</sup> Many doctors at the time came close to thinking of a normal black as one with syphilis. For blacks, the normal standard seemed to be sick not healthy.<sup>18</sup> Also, although black patients might be persuaded to come in for one syphilis treatment, the treatments had to be spread out over several months or years in order to be effective, so the ones who had some treatment very rarely ever got the entire course of the cure. This also contributed to the high syphilis rate.<sup>19</sup>

### Syphilis in the Early 20th Century

Syphilis treatments and tests in the early 20th century were not very advanced. Syphilis was one of the most common sexually-transmitted diseases, and if untreated, the effects could be permanently crippling or fatal. Two German scientists first discovered the syphilis bacterium in 1905.<sup>20</sup> Syphilis had been known as a disease for many years, maybe even since the first explorers brought it from America to Europe, but the cause of the disease had not previously been known.<sup>21</sup> In 1907, the Wasserman blood test was devised in order to identify the disease,<sup>22</sup> and in 1910, another German scientist found a primitive cure—Salvarsan, a preparation of arsenic. Salvarsan was first thought to cure syphilis with one injection in a week, but these cases showed a relapse, and doctors figured out that up to 20 treatments over the course of a year or two were required for many patients.<sup>23</sup> Unfortunately, such a high dose often proved fatal. Until doctors figured out the correct dose, the drugs offered “more potential harm for the

patient than potential benefit,” as a Center for Disease Control officer put it, according to James Jones in *Bad Blood*.<sup>24</sup>

If untreated for long enough, the disease can progress into a tertiary stage—the stage at which most patients in the Tuskegee experiment were. Tertiary stage syphilis is the most serious stage, although only about 10 percent of those with untreated secondary stage or latent syphilis can develop it. Soft tumors, called *gummas*, are able to form on bones, brain, eyes, lungs, liver, heart walls, spinal cord, and other organs. If the tumors grow on the brain, they can create insanity, memory loss, or change of personality. If the syphilis has advanced to this point, it is very difficult to treat, and although it can be cured by aggressive treatments, there is no reversal of the damage done by the tumors.<sup>25</sup>

Although inadequate public health laws at the turn of the 20th century caused large amounts of disease, by the 1920s things had begun to improve, although not enough to help most of the people who needed assistance. By 1914 every state except Wyoming and New Mexico had a state board of health. The movement for these boards began with the general acceptance of the germ theory, in an attempt to improve sanitation and other preventive methods against disease.<sup>26</sup> In 1918 Congress passed a law that created a national Social Hygiene Board and made a Division of Venereal Diseases in the United State Public Health Service. By 1919, 44 states had their own venereal disease bureaus, and 202 free or inexpensive treatment centers were operating.<sup>27</sup> Even with these new advances, many needed improvements were not added. On the eve of World War I, the methods for distributing medication for syphilis were so bad that Dr. Henry H. Hazen of Georgetown University, who was a supporter of industry, remarked that “if a factory turned out goods in the slipshod way that the average hospital hands out syphilitic medication, it would soon go to the wall.”<sup>28</sup>

Many doctors were convinced that syphilis for African Americans was an entirely different disease than syphilis in whites. Even though a similar study on untreated syphilis had been conducted in Oslo, Norway, from 1891-1910, those involved with the

Tuskegee experiment were convinced that blacks would have different reactions to long-term syphilis than the Norwegians already found.<sup>29</sup> The idea that syphilis in blacks was different from syphilis in whites was a key idea for the start of the Tuskegee experiment.

### Syphilis Treatment Demonstrations

The Tuskegee experiment grew out of syphilis treatment demonstrations in six different southern states. Because of the immense poverty and high rates of disease in the South, the federal government wanted to create free syphilis treatment demonstrations. The government hoped that these demonstrations would help people who couldn't afford doctors, and motivate people who hadn't been informed about treatment to get medical care, which would lower rates of disease by curing those already infected and preventing more infection from spreading.

The United States Public Health Service (PHS) approached the Rosenwald Fund to help fund the demonstrations. The mission of the Rosenwald Fund, a foundation started by Julius Rosenwald, the man who helped start the Sears Roebuck Company, was to help southern blacks. The Fund's director of medical services, Michael M. Davis, thought that the Fund's cooperation with the PHS would increase training and employment of black nurses, sanitary inspectors, and public health personnel; create internships for black doctors; and cause more black hospitals to be founded.<sup>30</sup>

In 1929, the PHS conducted a study of more than 2,000 blacks employed by the Delta and Pine Land Company in Bolivar County, Mississippi, and they used this study to interest the Rosenwald Fund. One quarter of those tested had syphilis. The Surgeon General of the United States, Dr. Cumming, found this intriguing and proposed that the PHS conduct a series of syphilis control demonstrations, and asked the Rosenwald Fund to pay for the syphilis treatment involved in conducting the demonstrations, about \$5,000 a year. Dr. Davis of the Fund liked the idea, but required that it be modified to employ black staff in order to

be eligible for the Fund's support. According to James Jones in *Bad Blood*, who cites a letter from Davis to Cumming, "Davis was so impressed by the project that he obtained the personal approval of Julius Rosenwald even before Dr. Cumming replied about the changes."<sup>31</sup> The PHS decided that they should conduct the demonstrations in six different counties across the South, chosen to see different circumstances of syphilis: Macon County, Alabama; Scott County, Mississippi; Tipton County, Tennessee; Glynn County, Georgia; Pitt County, North Carolina; and Albemarle County, Virginia.<sup>32</sup> Macon County was selected as a demonstration site because the Tuskegee Institute had offered to share its facilities and local doctors had offered their help.<sup>33</sup> The results found in Macon County were distressing, showing that 62 percent of the patients in the demonstration had congenital syphilis, which meant that the disease was now mostly being spread by passing from mother to fetus during pregnancy and that syphilis had lost its venereal definition.<sup>34</sup>

Unfortunately, the Rosenwald Fund, after a certain period of time, stopped funding the demonstrations. This was due to a number of reasons. First, evaluations of the demonstrations by members of the Fund were not good. In 1930, Dr. H. L. Harris Jr., a black representative from the Rosenwald Fund in New York, was sent to evaluate the demonstrations in Macon County. In a memo to Dr. Davis, he reported chaos and mayhem, and "the complete disproportion between the force at hand and the extent of the problem." There were bad conditions, and too many people to treat: "satisfactory physical examinations were of course out of the question."<sup>35</sup>

The Rosenwald Fund looked at options for the continuation of the demonstrations. They considered trying to make the demonstrations a state-funded project, but they knew that it would soon be ended because of the state's insufficient funds. They also considered expanding it to a large-scale, even statewide effort. But, Dr. Davis said that, "the baby threatens to grow so big that he will mash us if he sits in our lap. But I don't want to turn him loose till I'm sure he can live alone in a cold world."<sup>36</sup>

There was also the question of whether the demonstrations were actually helping people. Dr. Oliver C. Wenger, the director of Venereal Diseases in Hot Springs, Arkansas, told Dr. Taliaferro Clark, Assistant Surgeon General, that “[We] can convince any reasonable person who knows the present situation and the people we are handling, that our plans are practicable for the control of syphilis,” but, according to James Jones in *Bad Blood*, Dr. Harris of the Rosenwald Fund said that “the demonstration had...accomplished practically all that can be hoped from it and should not be extended.”<sup>37</sup>

In addition, the advent of the Depression made it impossible for the Alabama government to pay their mandatory part of the required money, and the Fund was having financial difficulties of its own, with the stock market. In 1931, the Rosenwald Fund’s trustees voted to discontinue the demonstrations because they believed that it was the state’s job to provide public treatment programs.

### The Tuskegee Syphilis Experiment

After the demonstrations ended, the doctors of the PHS were faced with different options for how to proceed. They could try to find new funding. Or they could try to figure out a way to continue the demonstrations in another form. Instead of *treating* syphilis, which was expensive, Dr. Clark came up with the idea to use the opportunity to continue research by studying the *effects* of untreated syphilis.<sup>38</sup> Dr. Clark would have preferred that the treatment continue instead of this experiment. But because the funding was withdrawn, he chose to make it a study for the long-term advantage of blacks with syphilis—instead of only the patients in the study.<sup>39</sup> The Tuskegee syphilis experiment came about as a result of lack of money, and the fact that the doctors involved thought that they could get away with something like this because the participants were poor, illiterate blacks, and because some of the doctors were more interested in the scientific discoveries that could be made than in their patients’ health or well-being.

## Tuskegee Institute

The Tuskegee experiment mostly took place at the Tuskegee Institute. The Institute was an all-black college in Macon County. It was where the various tests, treatments, and examinations took place. The Institute offered examination rooms, equipment, and personnel to help with the experiment. At the time of the experiment, the principal of the Tuskegee Institute was Dr. Robert R. Moton, a black man who was selected by Booker T. Washington himself, the previous principal and founder of the Institute. Dr. Eugene H. Dibble Jr. was the medical director. He was the person who convinced Dr. Moton to offer the help of the Institute during the demonstrations and the experiment.

## Protocols

After the Institute approved the experiment, a protocol had to be created for finding the subjects. Together, Dr. Clark, Assistant Surgeon General, and Dr. Joseph Earle Moore of Johns Hopkins University School of Medicine, created one. Dr. Moore wrote a detailed letter to Dr. Clark describing his suggested protocol.<sup>40</sup> Dr. Moore said that only men should participate because it was harder and less reliable to tell when a woman's syphilis had been contracted, because often it is harder for women to find the original chancre that marks the initial syphilis infection, and therefore harder to date how long they have been ill.<sup>41</sup> Dr. Moore also wanted to use men above 30 to make sure that they had been infected for at least 10 years, but the age limit was lowered to 25 and the extent of the disease to five years, because most instances of syphilis occurred between the ages of 25 and 30.<sup>42</sup> Dr. Moore suggested that even if some patients tested negatively on their blood Wasserman tests, these patients should still be considered and given other tests, because if a person has had syphilis for a long enough period of time, their Wasserman test may show up negative. Dr. Moore believed that if they did not test these people,



the doctors would be missing about 25 percent of the people with syphilis in the region. Still the experiment ended up using only people with positive tests, because with limited resources it would have been difficult and expensive to conduct any proper follow-up tests on the people with negative Wassermans.<sup>43</sup> Although a very thorough protocol was created to select participants, clearly, looking at the experiment, the protocol for the experiment itself was not very well-thought-out or planned, and an article in the *Hartford Courant* went so far as to say that “there is no evidence that a protocol—the plans and justifications for an experiment—ever was written for the Tuskegee Study.”<sup>44</sup>

### Benefits for Participants

The men who participated in the experiment had to have some sort of reward or payment in exchange for their participation. They were offered free hot meals on the days of examination; rides to and from the hospital where they were tested; a chance to shop in town near the institute; free, periodical examinations (most ailments were treated with aspirin); and \$50 for burial compensation, with permission to perform an autopsy if death occurred.<sup>45</sup> The free burial, provided by the study, represented most of the men’s only life insurance.<sup>46</sup>

### Appearance of the Experiment

Dr. Clark felt that Macon County posed a “ready-made situation” for studying untreated syphilis even after the demonstrations,<sup>47</sup> but he knew that he had to make the new experiment look exactly like the demonstrations, so that he could trick participants into thinking that it was more free treatment. He felt that it was also essential to have the support of planters and employers in the area who might be able to convince some of their employees to be tested to see if they qualified for the experiment. Dr. Clark said that in order “to secure the cooperation of the planters...it

was necessary to carry on this study under the guise of a demonstration.<sup>48</sup> Dr. Clark realized that he would also need to get the approval of the private physicians in Macon County, so that they would understand that their work was not being jeopardized by the PHS's presence.<sup>49</sup>

Dr. Clark did not want the PHS to have the entire burden of carrying out the experiment alone, so he asked the Tuskegee Institute to assist with providing the rooms, equipment, and supplementary staff. In addition, Dr. Clark knew that if the two organizations collaborated, more blacks in the area would trust the experiment because the Institute was well known and respected among the black community.<sup>50</sup> The experiment would also make everyone involved—the PHS, the Tuskegee Institute, and the government of Alabama—look concerned with black health.<sup>51</sup>

Dr. Clark and his colleague Dr. O.C. Wenger, who had worked with him on the demonstrations, met with two other people who had been part of the demonstrations, Dr. D.V. Gill from the Bureau of Preventable Disease, and Dr. J. N. Baker, the state health officer of Alabama, to propose Dr. Clark's idea of an experiment to study untreated syphilis. The men agreed to help, but Dr. Gill required that all patients have some level of treatment. The treatment requirement was supposed to include eight doses of standard syphilis medication, which was shown to not be enough to have real effects except for in rare cases, and other various treatments such as mercury pills. His request most likely was placed because Alabama had never had enough staff or money to treat people, and he wanted to take advantage of other doctors' interest in syphilis to make them treat poor syphilitics in Alabama. He may have also wanted to make the experiment seem good if it had to be explained to any sympathetic, white individuals who thought it was unethical, by saying that the participants *were* being treated. As James H. Jones writes in *Bad Blood*, "studying syphilis instead of treating it might not make sense to them."<sup>52</sup>

Drs. Clark and Wenger selected Dr. Raymond Vonderlehr, a long-time employee of the PHS, to be in charge of the study from Macon County, while they supervised from Washington.<sup>53</sup>

Dr. Clark originally had said that the study was supposed to go for only six to eight months. Because of Dr. Gill's requirement that all those involved be treated, Dr. Vonderlehr spent most of these months looking for enough men who met the protocols and treating everyone who showed up. Local churches served as recruiting centers.<sup>54</sup> This included women, even though they were not supposed to be involved in the study. If they had tried to exclude women from getting the treatment, some potential participants might have become suspicious and stopped coming, while the experiment needed everyone it could get.<sup>55</sup>

### The Beginning of Deception

The beginning of the deception, that continued for the rest of the experiment, finds its roots in a letter that was sent to potential patients about a high-risk test that they needed to undergo. Nearing the presumed end of the experiment, the doctors had decided to perform dangerous spinal taps on the men, to test for neurosyphilis—syphilis involving the brain or nervous system. The tests were in no way beneficial to the patients. In fact, they caused life-long discomfort and could be fatal or paralyzing. They were only performed in order for the doctors to study those men with neurosyphilis.<sup>56</sup> By this time, the participants had received their quota of syphilis medication that the Macon County Health Department had required be given to patients, so every test and substance administered was for the benefit of the experiment and not for the men.

In order to get men to come back for these spinal taps or lumbar punctures, a form letter was sent out to men whom the doctors wanted to test. There are conflicting sources about whose idea it was to send the letter and who actually wrote the letter. In *Bad Blood*, James H. Jones firmly states that Dr. Vonderlehr wrote the letter, which offered enticements and did not mention the spinal taps at all.<sup>57</sup> But in Susan M. Reverby's book, *Examining Tuskegee: the Infamous Syphilis Study and its Legacy*, she claims that Dr.

Murray Smith, the head of the Macon County Health department, wrote the letter.<sup>58</sup> (A copy of the letter is available in *The Practice of Qualitative Research* by Sharlene Nagy Hesse-Biber and Patricia Leavy on page 85. The letter was officially signed by The “Macon County Health Department, Alabama State Board of Health, and U.S. Public Health Service cooperating with Tuskegee Institute,” so the actual author is unclear.) The letter offered “Special Treatment” and free meals and beds if patients had to stay overnight in the hospital to recover. In order to really capture their attention, the last line of the letter repeated the lie that the men would be treated: “REMEMBER THIS IS YOUR LAST CHANCE FOR SPECIAL FREE TREATMENT. BE SURE TO MEET THE NURSE,” but no treatment was ever given.<sup>59</sup>

### The Extension of the Experiment

At the end of about six months, Dr. Vonderlehr, who had done all of the research and examined all the test results of the patients, was not ready to finish. By that time he had 600 participants, 399 with syphilis, 201 without. He wrote Dr. Clark a letter describing some ideas he had about continuing the experiment. This letter, out of all the documents available, really exemplifies Dr. Vonderlehr’s thoughts about putting medical research above human beings. He is able to push aside morality and replace it with his love of medicine without hesitation, and from this letter on, no one involved with the study ever disagreed with his plans enough to put them to an end. He wrote:

At the end of this project we shall have a considerable number of cases presenting various complications of syphilis who have received only mercury and may still be considered untreated in the modern sense of therapy. Should these cases be followed over a period of from five to ten years many interesting facts could be learned regarding the course of complications [of] untreated syphilis. The longevity of these syphilitics could be ascertained, and if properly administered I believe that many necropsies [autopsies] could be arranged through the hospital at the Institute with the cooperation of the National Institute of Health. A part time social worker should be able to see the

cases as often as necessary and the whole scheme could be supervised by one of our officers occasionally.<sup>60</sup>

Dr. Vonderlehr also wrote Dr. Wenger with the same ideas, and Wenger agreed, saying, “as I see it, we have no further interest in these patients *until they die*.”<sup>61</sup> But Dr. Clark, who had the final say, replied that due to “trying times...and spirit of uncertainty...I cannot at this juncture express any hope that we shall be able to expand our activities.”<sup>62</sup> It seemed that the experiment would end there.

But everything changed when Dr. Clark retired in June of 1933 and Dr. Vonderlehr took his place as director of the Division of Venereal Diseases at the Public Health Service. Dr. Vonderlehr changed the protocol of the experiment to include autopsies and made the decision to continue the experiment. This was when the experiment truly began without treating the participants. None of the participants was told that they had syphilis; mostly they were told that they had “bad blood,” a term used at the time to describe all sorts of ailments.<sup>63</sup>

A couple of times a year, throughout the experiment, which lasted 40 years, blood tests and even more spinal taps were given to the patients to study their progress.<sup>64</sup> In 1947, penicillin became the recommended drug for treating and curing syphilis. The fact that penicillin was withheld from the patients even though the original purpose of the study was to improve treatment for rural, Southern blacks, was ironic and unethical. The doctors involved in the study not only withheld treatment from the men, but they made sure that no one else treated the patients either. One participant, Herman Shaw, went to Birmingham, Alabama, in hope of treatment, but was turned away because of direct orders from the PHS not to treat people in the study. This also happened when men from the study tried to join the army. These men were offered treatment, but were denied help at the last minute because of PHS intervention.<sup>65</sup> PHS officials also threatened to stop health benefits for patients who sought help and asked local doctors not to treat them.<sup>66</sup> The study continued until 1972, when a weary PHS worker, who had quietly been disputing the study for a few

years, leaked news of the study to Jean Heller of the Associated Press, who informed the public.<sup>67</sup>

### The Project Staff

Right from the beginning, the study had an immoral plan. While not everyone involved may have been responsible for the whole idea, anyone who was informed of the experiment's plans and agreed to participate anyway was unethical on some level. The worst of these people were the ones who initiated the study. This included Dr. Taliaferro Clark, Dr. Raymond Vonderlehr, and Dr. John Heller, who was responsible for withholding penicillin from the patients. Although Dr. Clark may not have had too much involvement in the study, he was in charge for the first crucial year, and it was his idea to have a nontherapeutic study. His only redemption was that he was able to say no to a continuation of the study, which unfortunately happened anyway, after his retirement. Dr. Vonderlehr, the trainee appointed by Dr. Clark, was selected to take Dr. Clark's place, and he changed the experiment from a brief study of untreated syphilis to a years-long study where autopsies were expected. His downfall was his overwhelming devotion to science and medicine. Although this can be a good thing, in his case, he crossed the line by allowing his personal dreams of scientific discovery to get in the way of others' health and well-being. As for Dr. Heller, there is no redemption for what he did. Denying medical treatment that was proven to work, to people who need it, is unacceptable. It is truly terrible that he was able to withhold penicillin, which could have cured the patients and ended the experiment.<sup>68</sup>

Next are the people who may not have had major roles in the experiment, but knew what was going on and let it continue. Dr. Moton, principal of the Tuskegee Institute, was an example. He was informed of the purpose of the experiment when the PHS first asked to use the Institute's resources. It would seem that someone like Dr. Moton, the principal of an all-black college, would be

concerned for the welfare of men like the study's participants. But Dr. Moton merely asked that the findings of the study, including the high syphilis rate of the county, be published only in medical journals, so that the news would not damage opportunities for other blacks in the area.<sup>69</sup>

Lastly, there were the people like Nurse Eunice Rivers, who may have felt that the study's moral basis was wrong, but were not able to speak out for fear of losing their jobs. Nurse Rivers was the only black nurse to participate in the study. The main reason for her silence appears early in her nursing education, when she was taught two main rules to follow, as quoted in an interview by James Jones with Nurse Rivers that appeared in *Bad Blood*: "a nurse must treat all her patients equally, providing the best care possible to every patient without regard to the patient's social status or ability to pay for services rendered," and, "a nurse must follow the doctor's orders—completely, unequivocally, and to the letter." She was also told that the second rule trumped the first. It would have been very difficult for her to say no to the original job offer, which included very good pay for a black nurse at the time, and because she was obliged to follow the rules, she could not speak out if she wanted to keep her job.<sup>70</sup>

## The Results

The results of the experiment were bleak: 28 people died directly from syphilis, probably more than 100 more died from complications of syphilis, and an unknown number of others were crippled.<sup>71</sup> Twenty-two wives, 17 children, and two grandchildren of the men who participated in the experiment, were shown to have syphilis, possibly as a direct result of their family members' untreated syphilis.<sup>72</sup> Along with the deaths and illness following the study, the study did not actually help people understand untreated syphilis because, contrary to Dr. Vonderlehr's belief that the treatment they had gotten already was so negligible that it did not count as treatment, by medical standards the patients had been treated already, if only minimally.

## Immorality in Doctors

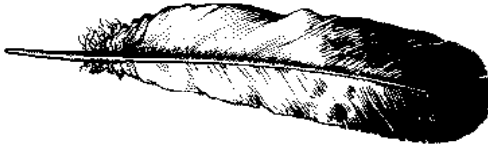
The Tuskegee Syphilis Experiment was a notorious example of unethical behavior in doctors. Although all doctors are required to take the Hippocratic Oath to do no harm to their patients, different cases of doctors behaving immorally have appeared since the study was initiated. In another famous example, Nazi doctors in concentration camps during World War II performed numerous human experiments on prisoners who did not give their consent. Many experiments were done on twins to study their genetic makeup, such as injecting chemicals into their eyes, and literally sewing the two people together. Surgeries were performed with dissection of nerves, bones, and muscle without anesthesia, which often resulted in the patient's becoming crippled. Also, in another Nazi experiment similar to the Tuskegee study, people were injected with glands from mosquitoes known to have malaria. They were then treated by a variety of different drugs, but a majority died anyway from overdoses of Neosalvarsan—a variant of Salvarsan, the same drug that was originally used to treat syphilis.<sup>74</sup>

Another example of medical misconduct is the doctor-monitored torture that existed up until recently in Guantánamo Bay. Some examples of torture which occurred under supervision of doctors include waterboarding, stress positions, small space confinement, sleep deprivation, and dehydration.<sup>75</sup> The difference between what happened in Guantánamo and other examples is that the doctors in this instance are not playing an active role, they are simply standing by and monitoring. However, by using their medical training to allow this to happen, they are going against their oath, and are nearly as bad as those who initiate and perform the experiments.

The motives of all of the people who were involved with these cases became skewed by what they thought would be good for the benefit of mankind, whether they thought they would make important medical discoveries, or protect the nation from



terrorists. They inadequately considered the thoughts or states of being of the actual people they were dealing with. These doctors convinced themselves that what they were doing would make the world a better or more knowledgeable place in the long run. In fact, at Tuskegee, these doctors behaved immorally, and put the lives of many people at risk.



## Endnotes

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- <sup>7</sup> *Ibid.*, p. 65
- <sup>8</sup> *Ibid.*, pp. 16-17
- <sup>9</sup> *Ibid.*, p. 17
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- <sup>12</sup> *Ibid.*, p. 73
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<sup>27</sup> Ibid., p. 49

<sup>28</sup> Ibid., p. 47

<sup>29</sup> Ibid., p. 93

<sup>30</sup> Ibid., p. 53

<sup>31</sup> Ibid., p. 54

<sup>32</sup> Bell, p. 34

<sup>33</sup> Jones, p. 66

<sup>34</sup> Ibid., p. 76

<sup>35</sup> Ibid., p. 80

<sup>36</sup> Ibid., p. 86

<sup>37</sup> Ibid., pp. 82-83

<sup>38</sup> Allan M. Brandt, "Racism and Research: the Case of the Tuskegee Syphilis Experiment," ed. Susan M. Reverby, p. 18

<sup>39</sup> Jones, p. 92

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<sup>41</sup> Ibid., p. 78

<sup>42</sup> Ibid., p. 78; and Jones, p. 107

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FIGHTING THE LAST WAR:  
HOW STRATEGY FAILED FRANCE IN 1940

Oliver Wyatt Kim

On 10 May 1940, German forces launched *Fall Gelb* (Case Yellow), a massive, whirlwind campaign to destroy the Allied forces in France and the Low Countries.<sup>1</sup> In anticipation of a German invasion of France through Belgium, as in World War I, Allied troops concentrated in central Belgium.<sup>2</sup> Knowing this, the Germans sprang a trap. German armored forces attacked the peripheral Ardennes sector, sped around the Allied rear, and trapped the bulk of the Allied armies behind enemy lines.

Surrounded and unable to coordinate an effective counter-attack, the Allied armies disintegrated. The British Expeditionary Force was evacuated from Dunkirk in disorder while 30 French divisions were captured, forcing France to defend a longer front with an army reduced by a third.<sup>3</sup> On 5 June, the Germans launched the final part of their offensive, *Fall Rot* (Case Red). The French line crumbled, and Paris fell on 14 June. Total defeat imminent, the French government fled to Bordeaux. While a vocal minority led by General Charles de Gaulle argued for continuing the war, most government officials favored a ceasefire to spare France from further destruction. On 22 June, France unconditionally surrendered to Germany.<sup>4</sup> In World War I, Germany failed to defeat

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France after four years of fighting; in World War II, France fell in six weeks.

Why did France fall so swiftly in World War II? It is true that the French Army of 1940 was no longer the unstoppable force of Napoleon. But in terms of manpower and equipment, it was at least equal in strength to the German army that opposed it. Although the French Army was initially outnumbered, adding the British Expeditionary Force, and the Belgian and Dutch armies to the Allied total made the French and the German forces numerically equal at around 130 divisions, or 3 million men.<sup>5</sup> Moreover, contrary to the popular view of an overwhelming German mechanized assault, the French actually deployed more armored vehicles than the Germans—3,000 French tanks to 2,400 German.<sup>6</sup> Liddell Hart, a contemporary military theorist and historian, noted that the French had more and better-armored tanks than the Germans.<sup>7</sup> Specifically, the SOMUA-S35, the French medium tank, was more than a match for its German counterpart, the Panzer III.

The French also held strong positions, both natural and man-made, that had to be overcome by the Germans.

The many rivers of the Low Countries and northern France (the most important being the Meuse and the Dyle) provided natural defense, which France capitalized upon. A line of defense was formed around the Meuse, and the Dyle formed the center of the main Allied strategy, the Dyle Plan.<sup>8</sup>

The most formidable man-made fortification was the Maginot Line—France's Great Wall. Spanning 87 miles of the Franco-German border, 'line' is actually a misnomer, as its width ranged from 20 to 25 kilometers, with an intricate underground tunnel system.<sup>9</sup> The Maginot Line represented the very best of defense engineering of the time, with concrete walls 1 to 3.5 meters thick, massive fixed artillery positions burrowed in the ground, and fully self-sufficient, subterranean garrison complexes equipped with state-of-the-art kitchens, dentist offices, and recreation rooms.<sup>10</sup>

With a large, well-equipped army and numerous natural and manmade defenses, France appeared to be Germany's equal

opponent. Yet France fell in only six weeks. This paper will argue that France's fall is attributable not to a lack of strength, but to three strategic errors: overreliance on the Maginot Line, pairing of infantry with armor, and misreading of the line of the German attack.

France's first strategic error was its over-reliance on the strength of the Maginot Line. Constructed in stages from 1929 to 1939, the Maginot Line was intended to protect the border regions of Alsace and Lorraine and to buy time for a general mobilization of the French Army.<sup>11</sup>

Alsace-Lorraine contained much of France's industrial strength. Alsace was an important population center, and Lorraine held vital iron reserves, the largest in Europe.<sup>12</sup> The security of Alsace-Lorraine also held great psychological weight with the French people, since the region had been lost to Prussia in the disastrous war of 1870, only to be returned after 1918. However, of greater importance for France was the timely mobilization of its army. France's smaller population (39 million versus 60 million Germans) necessitated a higher conscription rate.<sup>13</sup> This took time, which the Maginot Line was intended to buy.

Drawing from their experience of World War I, where barrages of artillery from fixed positions and well-entrenched soldiers on the defensive had managed a victory, French planners put their faith in the Maginot Line to slow the enemy advance. Any direct German assault on the Line would be confronted with miles of machine-guns, mortars, and artillery. German authorities had estimated that the *Wehrmacht* might incur an unacceptable number of casualties in taking the Line.<sup>14</sup> If the Germans chose to bypass the formidable Line by invading Belgium or Switzerland, they would be confronted with both determined defenders and imposing natural defenses (the rivers of Belgium and the Alps of Switzerland). The Line even reduced some of France's manpower concerns, as the defense of fixed fortifications required fewer men than the defense of an open border. This meant shortened service for conscripts, a popular proposition among the French people.<sup>15</sup>

However, for all its appearances of French military strength, the Maginot Line had two key flaws.

First, the Maginot Line held back many of France's best troops. The divisions manning the Line were among the best in the French Army. The very nature of fortifications, however, held these potent forces back. While the Germans recognized the futility of a direct assault on the Line and never attacked it, the French refused to leave the safety of 7 billion francs's worth of construction and never left it.<sup>16</sup> French Minister of War Maurin succinctly expressed this paradox to the Chamber of Deputies: "How can we still believe in the offensive when we have spent billions to establish a fortified barrier?"<sup>17</sup> During the Nazi invasion of Austria, the annexation of the Sudetenland, and the partitioning of Czechoslovakia, the French army took up its positions in the Maginot Line but did little else. During the Nazi campaign in Poland, when Germany left only 41 low-quality divisions to garrison their western border, the French attempted no offensive action save for a half-hearted invasion of the German Saarland.<sup>18</sup> This poorly conceived and executed offensive was halted on the threshold of the German border, letting slip an opportunity to smash through the Rhine and into Germany.<sup>19</sup> Even during the invasion of the Low Countries and France itself, the forces of the Maginot Line were held in reserve to fight off a second invasion over the Franco-German border, which never materialized.

Second, the Maginot Line reinforced a strategic bias in the mindset of the French generals—the so-called 'Maginot mentality'. The Line was both a progeny and a bulwark for the growing defensive attitude amongst the French generalship. Gone was the revanchist, offensive spirit that had so galvanized the French officer corps in the war of 1914; it was replaced by an atmosphere of caution and defense. France had suffered terribly in World War I, even as a victor, and had only won through a grueling war of attrition. The resulting logic was simple—France had spent 7 billion francs building a Great Wall, so why not use it?

In the 1920s, while France's military was still led by the keen, offensive-minded generals of World War I, the army high

command had prepared five plans in the case of another war, all of which called for immediate attacks straight into the heart of Germany. In the 1930s, when the French military transitioned to new leadership, six new plans were developed, all of which emphasized the defense of the homeland.<sup>20</sup> This transition to militarily conservative generals directly coincided with the construction of the Maginot Line.

While the Maginot Line could have been used as a launching-point for an invasion of the Rhine, the French chose to stay in their positions and wait. When the *Wehrmacht* was off campaigning in Czechoslovakia, Poland, Denmark and Norway, leaving the German border open to attack, the French chose to remain secure in their forts. In this way, the Maginot Line aided the Germans and weakened the French.

France's second strategic error was in pairing its armor with its infantry. After World War I, military theorists of the great powers developed strategies to eliminate the indecisiveness of trench warfare. In Britain, home of the tank, J.F.C. Fuller and Liddell Hart proposed their ideas of a fast, mechanized war. In the United States, George S. Patton pushed for the creation of an armored force. In France, Colonel Charles de Gaulle called for the creation of a smaller, elite corps of six armored divisions to supplement France's large conscript army.<sup>21</sup>

Though de Gaulle found considerable political support in Paul Reynaud, the French prime minister, he was opposed by the 'old guard' of the French military—Petain, Weygand, and Gamelin—the same generals who won the last war.<sup>22</sup> De Gaulle was denied promotion and was kept from command until the German invasion, when he led one of the few successful French counterattacks of the war.<sup>23</sup>

Meanwhile, in defeated Germany, General Heinz Guderian published *Achtung-Panzer!* ("Attention-Tank"), a German version of tank warfare. Guderian wrote, "rapid execution of the armored attack is of decisive importance for the outcome of the battle; the supporting arms...must accordingly be just as fast-moving as the tanks themselves."<sup>24</sup> Essentially, Guderian was laying the

foundations for *blitzkrieg*, “lightning war.” But Guderian’s ideas of mechanized warfare were far from original. Ironically, many of his ideas may have been “borrowed” from the thinkers of nations he was later to fight. J.F.C. Fuller and de Gaulle are both cited in *Achtung–Panzer’s* bibliography; indeed, de Gaulle is explicitly mentioned as “approaching reality” with his proposal for armored divisions.<sup>25</sup> However, unlike in France, Guderian’s proposals were endorsed by the German high command and implemented.

In August 1939, on the eve of the war, the French and German tank doctrines were compared at a conference of the 511th Tank Regiment at Verdun.<sup>26</sup> The German doctrine focused on attacking with armored spearheads to cut through weak points in the enemy line, while the French doctrine called for engagement of the enemy on a large front in a painstakingly planned “methodical battle,” where tanks and other weapons were subordinate to the infantry.<sup>27</sup> Thus, 1,500 of the 3,000 French tanks were allotted to the infantry, 700 to cavalry divisions, and only 800 were dedicated to three purely armored divisions.<sup>28</sup> In contrast, the vast majority of the 2,400 German tanks were concentrated in its 10 Panzer divisions. This strategic difference proved key to the German victory.

Germany’s new paradigm of warfare was drawn from the one of the bloodiest lessons of World War I, the Battle of Verdun. In 1916, the Germans threw waves of hapless infantry assaults in a vain attempt to “bleed the French white” at the strongest point in their line, the fortress of Verdun.<sup>29</sup> German generals hoped that the offensive would break through French lines and end the war. However, this offensive also succeeded in bleeding the Germans dry. The Germans took home a key lesson: strong points should be bypassed in favor of attacking the enemy’s weak points.<sup>30</sup> This thinking led to the successful storm-trooper tactics used in the Polish and French campaigns. The French took home the wrong lesson: that only well-prepared defensive positions and infantry supported by other arms would carry the day. The perceived success of fixed fortifications against enemy assault heavily influenced the construction of the Maginot Line, and the success of French

infantry supported by artillery and cavalry was the basis for subordinating tanks to foot soldiers.

As France's armored vehicles were tied to its infantry, its army moved at the same speed as Napoleon's: marching pace. French campaigning was limited to areas where roads could support large columns of soldiers. Though Germany's artillery trains and supply lines were still bound by traditional roads and bridges, its elite armored divisions were not. Unburdened by slow infantry, the German armored formations could move as fast and far as fuel supply would allow. Remarkably, Hitler halted all troop movements during the invasion for two days as his tank columns had advanced farther than his generals had anticipated.<sup>31</sup> In this way, the German tanks enjoyed unprecedented freedom of movement, revolutionizing modern warfare.

French tank doctrine simply fell behind the times. Led by conservative leaders and drawing the wrong lessons from its 1918 victory, France ignored the evolving nature of war, negating its tanks' numerical and technological superiority.

France's third and greatest strategic error was its misreading of the line of German attack. This error had two main components: the first was the ill-advised Allied advance into Belgium, and the second was the neglect of the crucial Ardennes sector.

With the formidable Maginot Line stretching across the Franco-German border, Allied planners expected the main German offensive to go through Belgium, as it had in World War I with the Schlieffen Plan.<sup>32</sup> When Belgium entered the war, the Allies duly moved their forces into defensive positions in that country. The Allied strategy was first to weather the German offensive in Belgium. Then, once the German blow had been blunted, the Anglo-French forces could take full advantage of their numerical and material superiority and begin their own offensive—the so-called “methodical battle” of tightly controlled units favored by French planners.<sup>33</sup> However, the Allied advance into Belgium played directly into the hands of the new German strategy, an armored attack through the Ardennes to cut off the armies in Belgium.

Yet if the Germans had failed to break through the Ardennes, the French army, even with its inferior armored tactics and lack of offensive spirit, still had a chance of victory. However, the French chose to neglect the defense of the Ardennes sector, which cost them the war.

The rugged Ardennes forest stretches through Belgium, Luxembourg, and France. It occupied an important position in the center of the Allied line. In hindsight, its strategic importance could not be overstated. Seizing the Ardennes would force a wedge between the mobile forces in the north and the Maginot Line in the south. If that gap were exploited, enemy troops could rush to the sea, cutting off the bulk of the Allied armies. However, in 1934, Marshal Petain famously stated that the Ardennes was impassible to tanks.<sup>34</sup> Even without any significant defensive preparations in the area, many French commanders remained under the illusion that the Ardennes was impregnable. General Gamelin, the French Generalissimo, went so far to say that “the terrain would defend itself.”<sup>35</sup> As such, only two low-quality divisions, both consisting of older reservists, were assigned to the defense of the Ardennes sector.<sup>36</sup>

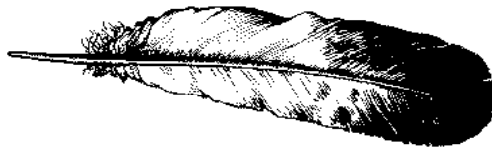
German troops began their invasion of the Low Countries on 10 May 1940.<sup>37</sup> The Allies moved into their positions in Belgium according to plan—the German plan. While the well-trained French and British troops in Belgium braced themselves for the brunt of the German blow, crack panzer divisions quietly moved towards the Ardennes. On 11 May, they sprang their trap. German units crossed the Meuse River in the Ardennes and attacked the ill-prepared French reservists.<sup>38</sup> Faced with German tanks, these old conscripts quickly fled.<sup>39</sup> The French rushed in motorized troops to seal the gap, but it was too late. In spite of a spirited defense by some of the better-trained French units, the Germans quickly exploited the hole in the French line, and by 15 May 1940, German panzers were racing across northern France.<sup>40</sup> By 20 May, German troops under none other than Heinz Guderian reached the mouth of the Somme, cutting off the Allied armies in Belgium.<sup>41</sup> This sealed the fate of the Allied armies. Brave counterattacks by

de Gaulle's tanks at Laon and the British armor at Arras proved futile as Guderian's panzers closed in around the trapped Allied armies, centered at Dunkirk.<sup>42</sup> Though much of the trapped Allied force was rescued by sea, the fighting power of the French army was crushed. German forces were free to wreak havoc on the rest of France, and on 22 June, France's war ended.<sup>43</sup>

In conclusion, France lost because it was fighting the last war. Though defended by the same stalwart soldiers and armed with modern equipment, the French army ignored the calls for change and marched into battle much as it had in World War I.

All of France's strategic errors stem from this attitude of military conservatism. While defeated Germany abandoned the defense in favor of the attack, the French put their faith in a modern-day Great Wall. While the defeated Germans recognized their failure to innovate and revolutionized their tank doctrines alongside the evolving technology, the victorious French saw little need for this and stuck to the same tactics that had won them the previous war. And as the Germans prepared a new battle plan for a new kind of warfare, the French designed their defense around stopping the German attack of the last war. Ultimately, military conservatism negated France's military strengths and doomed it to defeat.

Though the exiled Free French Forces under de Gaulle fought gallantly for the remainder of the war, the collapse of 1940 could not be forgotten. It was the choice of military conservatism that humiliated one of Europe's Great Powers, leaving an indelible scar on the proud history of the French people.





## Endnotes

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THE ORPHAN TRAIN MOVEMENT AND ITS  
EMOTIONAL IMPACT ON “PLACED-OUT” URBAN YOUTH

Lesley Carmen Stevenson

The Progressive Era provides a rich study in the development of industry and subsequent reform movements, but in a period so centered on workers' activities, the lives of children were often overlooked. Children faced as many problems as adults in the dangerous and squalid tenements. Reformers taken by the plight of the urban poor eventually began to implement programs designed to secure them a better future. Settlement houses offered an organized way for social workers to interact directly with families in their impoverished neighborhoods, while placement of children in establishments like almshouses and orphanages offered a usually desperate alternative to street life. What is perhaps the largest, most radical program arose in light of the charities' struggle to make an impact on urban youth. It was the orphan train movement, made famous by Charles Loring Brace and his Children's Aid Society. Beginning in the 1850s and culminating in the 1920s, this organization and many like it shipped impoverished children by train to farming families in the Midwest, but its results varied. Many children found caring new homes, while others were subjected to worse conditions than

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before. The reward for many children was significant, but so too was the emotional toll. Each of these different programs managed to keep the same honorable goal: lessening the population of city orphans and preventing the children's assimilation into decadent street life. Following the early attempts of reformers to establish institutions to combat child poverty, the orphan train movement sought to deliver children to better lives in the West, a goal that was ultimately accomplished, but at a high price for the children themselves.

From the onset of urban growth, institutions had attempted to serve the masses of desperate families. Immigrants contributed in huge numbers to the rapidly growing population of New York City; on average, one thousand entered the city every day.<sup>1</sup> Language differences and illiteracy, along with many other limitations, confined these job seekers to factory work in the slums,<sup>2</sup> thus creating a general association between immigrants, penury, and charity. Following the Civil War, a huge growth of industry and the influx of immigrants contributed to a rise in the number of orphans among the urban poor.<sup>3</sup> Between 10,000 and 30,000 children were homeless or lived in orphanages in New York City by 1850, a time when the city's total population was only 500,000. Children could become orphans for many reasons. Some parents died after contracting any of the time's virulent illnesses, such as typhoid, yellow fever, and influenza. Added to these diseases were the dangers of poverty, including poor nutrition, the violence of life in the tenements, the dependencies of addiction, and the unsafe conditions of factories. Especially susceptible to these conditions were the poor immigrants coming to work in factories.<sup>4</sup> Besides daily problems, children could also enter the workforce to sustain family income, especially upon the death of one or both parents.<sup>5</sup> With the recent end of the Civil War, many children had only mothers, their fathers or older brothers having died in combat.<sup>6</sup> With so much potential for disease, death, and abandonment, the eventual magnitude of child poverty, though shocking in its scope, was hardly a surprise. Orphans soon began to comprise a class of their own with their own lifestyle and soon with specialized relief options.

“Street Arabs” was one term used to describe urban orphans because they tended to wander around the city.<sup>7</sup> With no other means of shelter or survival, many street orphans slept in doorways, cellars, outhouses, barges, or boxes.<sup>8</sup> One formerly homeless child recalled that she would wake up screaming in the night because of rats running through her hair.<sup>9</sup> The children spent their days trying to sell matches, newspapers, rags, or pieces of coal for a meager living. Those who could not make enough money were forced to beg or steal. In desperation, boys might enter street gangs that targeted affluent New Yorkers, while girls, even those younger than 12, sought some kind of income through prostitution.<sup>10</sup> Before the wide availability of juvenile charities, police often arrested orphans and put them in jails with other criminals. Age did not matter; children as young as five could be placed in jail.<sup>11</sup>

Urban children could also be labeled juvenile delinquents, giving the state a reason to place them into large institutions.<sup>12</sup> According to Marian Irvin Holt, author of *The Orphan Trains: Placing Out in America*, “the definition [of delinquent] could mean any child or teenager who habitually used profane language, frequented saloons or pool rooms, wandered ‘railroad yards or tracks,’ or who had the ‘idle and immoral habits of smoking cigarettes and other things.’”<sup>13</sup> Wisconsin’s *Blue Book* cited five reasons for girls to be placed to the industrial girls’ school, including being “stubborn and unruly,” “viciously inclined,” or prone to sin, being “truants, vagrants, [or] beggars,” or being convicted of an adult crime. As Clark Kidder, the author of “West by Orphan Train,” observed, “children came to live in charitable and reformatory institutions by any action, their own or a parent’s, that made them dependent, dangerous, or both.”<sup>14</sup> The historical attitudes of superiority and authority over the urban poor were expressed even by Charles Loring Brace, a revolutionary of orphan relief, who described the “dangerous class” of New York as “ignorant, untrained, passionate, [and] irreligious.”<sup>15</sup> Although these street Arabs were considered by many to be small criminals, others, like Brace, still believed that, even in their most desperate situations, “kindness can always touch them.”<sup>16</sup> Works such as Jacob Riis’ *The Children of*

*the Poor* and Kate Douglas Wiggin's *Children's Rights* supported the opinion that children, when removed from the dangers of urban poverty, could grow to be perfectly normal, capable citizens. Other publications like *Frank Leslie's Illustrated Newspaper* highlighted true stories about the urban poor and the work of reformers to help those in need.<sup>17</sup> Works like these inspired many to take up arms against destitution, ultimately contributing to a Progressive crusade; however, the origins of the movement began to develop even before this mass propaganda.

Through the 1700s and early 1800s, aid to the impoverished often took the form of almshouses and other undesirable alternatives. In some cases, any member of the working poor might be auctioned off to the lowest bidder for his or her labor.<sup>18</sup> The fundamental idea of this process was to provide for the poor using the least amount of money possible. Before the rise of orphanages, children could be placed along with the sick, elderly, insane, and even criminals in large facilities. These charities included almshouses, poorhouses, poor farms, country farms, workhouses, and prisons.<sup>19</sup> Critics of the system claimed it "was composed primarily of lazy drunkards, unwed mothers, feckless immigrants, and the aged, crippled, and mentally defective."<sup>20</sup> A New York state commission claimed that "common domestic animals" often received better treatment than the people housed in large institutions.<sup>21</sup> Every aspect of life in an almshouse was strictly controlled, from meals to schedules to behavioral standards. Children coming to the almshouses were frequently indentured or apprenticed in the surrounding area. Somewhat surprisingly, parents did have influence, though limited, regarding their children's work and could ask for them to be removed from undesirable situations; nevertheless, to assert any influence, parents had to be able to support the children on their own, likely negating any potential authority.<sup>22</sup> By the mid to late 1800s, politicians and reformers began to reject the idea of placing children in almshouses, and new practices evolved.<sup>23</sup>

In 1889, Jane Addams established Hull House in an impoverished Chicago community comprised of immigrants and

factoryworkers. Like other settlement houses, Hull House offered classes, meals, clubs, and recreational activities for neighborhood families and their children.<sup>24</sup> It was Jane Addams' belief that children were innately adventurous and that cities provided too many dangerous options for exploration, including violence and addictive substances, before children were equipped to resist them. Addams encouraged the establishment of the Juvenile Protection Association, which previewed films and offered virtuous lectures, and she supported the addition of more parks and playgrounds as safe outlets for childish adventure. In her idealized view of childhood, she trusted that all children desired to make a positive difference in the world, but that their experiences working in factories encouraged involvement in less than admirable activities.<sup>25</sup> Her opinions and the similar convictions of others were the driving force behind even more options for childcare.

Orphanages began to gain popularity in response to the inability of almshouses to make a noticeable impact on child poverty.<sup>26</sup> As larger institutions became more and more crowded and less attention was given to children, orphan asylums began to open and operate specifically for children.<sup>27</sup> They provided basic necessities and taught fundamental knowledge, job skills, and discipline in a more specialized manner.<sup>28</sup> Through the late 1700s to the mid 1800s, many orphanages began to take root in cities. By 1822, there was even an African-American children's orphanage in Philadelphia run by Quakers.<sup>29</sup> To be placed in an orphanage, a child did not necessarily have to be a true orphan. One or both parents could be living but without the means to raise a child.<sup>30</sup> Children could also make their way to orphanages in the event of a family crisis like a death, disease, or unemployment or in search of protection from incompetent parents.<sup>31</sup> Fifty-six new orphanages and children's institutions were founded between 1830 and 1850, and the number of children in orphanages grew from 200 in 1790 to 123,000 by 1910,<sup>32</sup> a growth surely boosted by rising industrialization and immigration. With so many children in need of basic essentials, the few operating orphanages were overcrowded and barely provided each child with enough food and a proper education. Of course, with so many children, indi-



vidual attention was very limited. When they turned 14, children usually left their orphanages permanently to find their own work and home,<sup>33</sup> creating a job-seeking class of homeless adolescents that no agency seemed equipped to help.

The Massachusetts Adoption Act of 1851 was one of the first laws to clearly define adoption and the adoption procedure. Originally, the practice was fairly uncommon; indentures often took the place of legal adoption before the 1850s. Families would bring children into their homes through an economic agreement and could leave them an inheritance upon death. Adoption eventually became more commonly recognized, and with the new Massachusetts state law, written consent from the biological parents or legal guardian became necessary to dissolve all ties between them and the children. After that, the children could legally be considered members of their adoptive families as long as a judge deemed the new parents worthy and responsible. Passed in 1917, the Children's Code of Minnesota made adoption procedures more strict by requiring an investigation of adoptive families by a state agency, establishing a six-month-long wait before finalization of adoptions, and closing all adoption records to the public. These policies became the paradigm for the other state legislatures to follow in their adoption laws.<sup>34</sup> In 1909, leaders in the field of social work met with President Theodore Roosevelt for the White House Conference on the Care of Dependent Children. Among their 13 recommendations was a strong advisement for homeless children to be placed in foster care, not large institutions.<sup>35</sup> With the shortcomings of almshouses and orphanages being so obvious and the system of adoption lacking thoroughness, one young minister initiated a program that would revolutionize the approach to child poverty and adoption. His system provides an archetype of many other agencies of the time and, though it encompassed many unique features, can stand as a general representation of most organizations.

The Children's Aid Society was founded in 1853 and was directed by Charles Loring Brace from 1853 to 1890, at which time his son, Charles Loring Brace, Jr., took over.<sup>36</sup> Children served

by the CAS came from all over New York City, including asylums, prisons, streets, docks, shelters, and even parents seeking a better life for their children.<sup>37</sup> According to Brace, his programming goals for the society were to have Sunday meetings, to open an industrial school, to build living and reading places for children, and to hire agents to look after the children.<sup>38</sup> Brace did indeed establish shelters for homeless newsboys, trade schools, and day-care centers for young children.<sup>39</sup> The CAS also operated night schools and reading rooms and provided clothing, shoes, and food to urban youth.<sup>40</sup> Offering free school lunches to destitute children was another of the society's initiatives.<sup>41</sup> Brace recognized that impoverished children required the same love and affection as other children, and Christian responsibility, he explained, acted as a call to arms for him and other social workers by encouraging charitable aid.<sup>42</sup> By establishing programs like these within the city, Brace hoped to improve the character and the future of his urban youth.<sup>43</sup> Essentially, his long-term objectives were to provide children with work opportunities, multi-faceted educations, and emotional support. He believed children who were given these basic chances would be less likely to rely on criminal activities for support and more likely to become self-sufficient adults.<sup>44</sup> It was in this spirit of Christian improvement that Brace began his most radical program, the "placing out" system.

With such a vast population seeking help and finding it in programs like the CAS, the need for large-scale aid became even more pressing. Brace initiated the CAS's version of "placing out," or moving, children to new homes in the Midwest.<sup>45</sup> The CAS was not the only organization to send children west by train, but it was the largest and most prominent.<sup>46</sup> Brace originally planned to send children to upstate New York, but he eventually found too many children and too few families, leaving the West as the CAS's primary destination.<sup>47</sup> Beginning in 1853, children were sent to employers in the states surrounding New York. Later, the organization would send children to farms and homes in even more northeastern states.<sup>48</sup> Brace's objective was to place children in Protestant families where they could be taught the best traditional American values.<sup>49</sup> Some believed that the urban life

and atmosphere in big cities had a negative impact on a child's wellbeing; therefore, a simple farm life would be better for the children and their health.<sup>50</sup> Author Marian Irvin Holt offers the Children's Home of Cincinnati as evidence of the social workers' belief that rural environments are the best setting for the care of children; their organization offered both a farm school and a rural location for city children.<sup>51</sup>

Brace's first orphan train was sent to Michigan in 1854 and carried 46 children.<sup>52</sup> The median age of orphan train riders was nine years old, and there were, on average, three boys to every one girl.<sup>53</sup> Agents selected children from local establishments to travel west using their own discretion in choosing only the ones that seemed likely to find a home. While some of the orphans saw their journey as an opportunity for a new family and a better life, others, especially those who still had living relatives, were often confused and upset about leaving New York. Before their departure, children were bathed and their hair was cut. In addition to a Bible, they were given two sets of clothes.<sup>54</sup> The wardrobe selections were often professional and fashionable;<sup>55</sup> attire could sell a child almost as easily as a complacent attitude. Additionally, many children were also allotted a suitcase in which to carry their few possessions.<sup>56</sup> Because stops were made along the way for families to inspect and select children, the total trip west could last as long as six weeks.<sup>57</sup>

The number of agents on a trip depended on how many children were going; on average, there were two. Although children often held differing opinions about the agents, most workers cared immensely for their charges.<sup>58</sup> One rider, however, compared his agent to the bicycle-riding Ms. Gulch, also known as the Wicked Witch of the West, from *The Wizard of Oz*.<sup>59</sup> Usually, agents came from professions like education, social work, or a ministry that also involved interaction with children.<sup>60</sup> Their job was to perform annual checks on the children and re-place them if they were unhappy; their goals were to prevent or stop abuse early and prevent children from running away.<sup>61</sup>

The selection process was notoriously unpleasant for the children. Advertisements ran in local newspapers prior to the train's arrival so potential families could come into town from the surrounding area.<sup>62</sup> Since there was little screening of possible parents before placement and limited checking on the families afterwards, the CAS began to rely more on local committees to find towns where many people desired children, to publicize the arrival of the trains, and to ensure that the families would be satisfactory.<sup>63</sup> The children would stand in a public place like a courthouse or a stage and were invited to demonstrate any peculiar talents they had, such as singing. The families were then permitted to inspect the children, "in the same manner in which they'd inspect cattle: publicly, critically, and without any sense of the child's feelings."<sup>64</sup> Similar to a slave auction, it was a trial that left a lasting impression on many train riders. Many agreed that the experience was dehumanizing, comparing the process to "picking out puppies" and saying they "felt like a bunch of cattle."<sup>65</sup> Orphan train rider Hazelle Latimer has stated that it "was an ordeal that no child should go through,"<sup>66</sup> and that overall it was "a very humiliating day."<sup>67</sup> Latimer recalled how she stood for inspection while a man shoved his finger into her mouth to feel her teeth.<sup>68</sup> After the viewings, families could sometimes bring children to their homes for one day as a sort of trial run, and then return to town in the evening, either to officially take the children or send them on their way.<sup>69</sup> Some children did refuse placement with families who wanted them, though such an act could be taken as an indication of bad character.<sup>70</sup>

After the viewing and placing of children, agents usually remained in the area to be sure that children placed recently and on previous trips were settled, staying perhaps a few days or a few weeks.<sup>71</sup> Agents could not always prevent problems, however. As Clark Kidder has noted, "if the agent did not arrive in a timely manner to remove a child, the child would often run away to escape abuse, and both abuse and the act of running away appeared to be common."<sup>72</sup> Said Latimer, who ran away from her first placement, "They didn't want a child. They wanted a slave." The argument that Midwestern families used the orphan trains

as a means of acquiring cheap labor was a common protest during the Progressive Era and continues to plague the legacy of the trains. In one southerner's view, "men needing labor, their slaves being set free, take these boys and treat them as slaves."<sup>73</sup>

Whether or not the CAS or other agencies promoted placement of siblings together or near each other remains unclear. The choice seems to have belonged to the agent in charge. When a good opportunity arose for an older child, he or she was immediately sent to that home, regardless of any family left behind. As a result, siblings could end up living very far apart from each other.<sup>74</sup> According to Kidder, the CAS was aware of the difficult life orphans usually faced, so in an attempt to limit the children's suffering, policies advised against placing siblings together or letting children keep in contact with their family and friends.<sup>75</sup> Lee Nailling, an orphan train rider, experienced this while leaving New York. His father gave him a pink envelope with an address so Nailling could tell him where he and his brothers were placed, but during the night, one of the workers stole the envelope from Nailling and told him later that he would not need it.<sup>76</sup> Nailling's story is consistent with writer Clay Gish's report that the CAS sought to completely remove children from the purportedly bad influences of family and friends and to provide them with entirely new homes, uninfluenced by previous lives.<sup>77</sup> Andrea Warren, author of *We Rode the Orphan Trains*, conversely wrote that keeping siblings together or near each other was actually a goal of the organizations, but it was not always possible. She added that separations could also occur before the train even departed, as one child might be sent west while the other remained in New York.<sup>78</sup>

Other societies in the urban Northeast operated in manners similar to the CAS. The New York Juvenile Asylum sometimes sent their children west with the CAS and other times in their own groups. The New York City House of Refuge took children who were either criminals or likely to become criminals, according to the courts or their parents. After going through education and reform programs, the children were sent out, boys to be apprenticed on ships or farms, and girls to be indentured as servants.

Others were sent west by the CAS. In Boston, the Boston Children's Mission and the New England Home for Little Wanderers functioned like the Children's Aid Society in New York.<sup>79</sup> Emotionally or educationally struggling children were of particular concern to the New England Home for Little Wanderers.<sup>80</sup> For Catholic orphans in Boston, the Home for Destitute Catholic Children sent children west by train and later only to local churches by trolley, earning their children the name "streetcar babies."<sup>81</sup>

Besides the Children's Aid Society, the New York Foundling Hospital (NYFH) was a widely recognized placing-out agency, although it functioned differently in many ways. First known as simply the Foundling Asylum,<sup>82</sup> the NYFH was established in 1869 by Sister Irene of The Sisters of Charity and provided a temporary home to infants and toddlers. An empty cradle stood near the front door of the hospital, so that mothers and fathers could leave their children with the sisters.<sup>83</sup> Too few wet nurses and contaminated artificial milk proved to be a major cause of infant deaths, and because the infant mortality rate was so high, the NYFH allowed and even encouraged mothers to stay with their children at their hospital,<sup>84</sup> providing a shelter for women with infants in hopes of keeping them together. The NYFH hired married women to participate in their boarding-out program,<sup>85</sup> which involved infants being sent to wet nurses in private homes, many in the countryside.<sup>86</sup> The women, most of whom had recently had a baby or lost a baby in childbirth, acted as wet nurses for the orphaned infants.<sup>87</sup> This is the chief difference between the NYFH and the CAS—while the CAS served children and adolescents, the NYFH concentrated on infants and toddlers, a unique age group that was also the focus of their placing-out system.

Unlike the CAS, the NYFH selected families for their charges before sending them west.<sup>88</sup> An identification number and the new family's name were sewed onto each child's collar.<sup>89</sup> Agents searched ahead of time and spoke with local priests to find Catholic families willing to welcome children. The "baby trains" sent by the NYFH usually averaged about 50 infants and toddlers. Both the agent and local priest could ensure that the children

were safe and happy in their new homes.<sup>90</sup> The life of Marjorie Jane Bagley, my great-grandmother, provides a clear example of a fairly typical NYFH train experience. She was born Carmen Shanahan on May 15, 1914, and her parents were Edward Shanahan and Mary Tamburo.<sup>91</sup> Tamburo brought her infant to the NYFH because she could not care for her herself. Carmen's adoption records state that "[Mary Tamburo] wanted...to surrender to the NYFH all her rights to the child."<sup>92</sup> A local Missouri priest helped arrange baby Carmen's coming to the Roloffs, her eventual adopted family, and she was later identified at the Kansas City train station by a number.<sup>93</sup> Her life eventually saw an indenture, an adoption, abuse, and shame, none of which was remarkably uncommon for an orphan train rider.

The agreement system of the NYFH was called an indenture and was different from those of other organizations; adoption was not required. Indentures were not as binding as full adoptions but were more than the traditional indenture, which was solely an economic agreement between the two parties. According to Bagley, it was essentially a "custody agreement."<sup>94</sup> The indenture form required families to treat the orphans as their own children, to employ and instruct them in their homes, and to ensure their Catholic upbringing; in return, children were to obey the parents in all circumstances. There was even an emotional provision specifying that families must show orphans "like care and tenderness" as though they were biological children. Records specified that agents must be allowed to visit children and that families must write to the agency once every six months, though neither visits nor letters were likely to be very frequent. If the children reached 18 and were not sent back or adopted, families were expected to keep them as a natural offspring and provide for them in wills. Additionally, parents were not permitted to relocate underage indentured (not adopted) children without the consent of the NYFH.<sup>95</sup> After indenture, the more permanent adoption agreement gave families the ability to raise and discipline children as if they were biologically related.<sup>96</sup> While the NYFH's system of indenture and adoption differed from the CAS's, its effects and

its problems were still largely the same, raising the same issues and inciting the same criticisms.

Most orphanages were private organizations established by a religious group and intended to serve followers of that particular faith.<sup>97</sup> Christian duty was also undoubtedly a motivation for many social workers. As Holt writes, "...Brace would have said that his placing-out plan was not one of the social control but of moral control, exposing children of the poor to basic Christian instruction."<sup>98</sup> African American orphans were usually raised by friends or neighbors because most agencies would not help them.<sup>99</sup> Jewish children were seldom sent west and were supported instead by local Jewish charities. In both New York and Boston, however, Jewish children were sometimes sent to organizations like the CAS to be placed in the West.<sup>100</sup> In the opinion of Charles Loring Brace IV, great-grandson of Brace, Sr., the largest objection to the CAS's placement of children was not the separation of siblings or the cases of abuse but the fact that most of the destination homes were Protestant, a major concern for Catholic and Jewish babies and families.<sup>101</sup> Consideration of the children's religions was evident in state laws containing "religious protection" clauses, which required children's placement in homes of the same or similar faiths as their own.<sup>102</sup>

After a while, big cities with homeless families and children began to form in the states targeted by orphan trains; thus, need and desire for northeastern orphans began to subside.<sup>103</sup> As early as the 1860s and 1870s, western cities began to grow and accumulate orphans of their own. These children were often sent even farther west. In response to difficulties monitoring child welfare, the Sisters of Charity, who ran the New York Foundling Hospital and other institutions, eventually tried to center their efforts closer to the children's original neighborhoods.<sup>104</sup> The Hepburn Act in 1906 prevented railroads from offering special rates and favors, so sending children west without a discount became expensive.<sup>105</sup> The practice eventually died out by the late 1920s.<sup>106</sup>

While there were many reports of children finding happier lives in the West,<sup>107</sup> there are also many that tell a different



story. Children's Aid Society critic Richard Wexler contends that biological parents often gave up their children unwillingly and never knew about or agreed to their placement on the trains.<sup>108</sup> Holt writes that to modern readers, the rescuing of children by charitable societies "presents a disturbing mental picture: a street cleaner rolling along, picking up children in its wake and then those children being packed off on a train to a place of which they, and possibly Brace, had never heard."<sup>109</sup> As a PBS documentary concluded, "Brace's system put its faith in the kindness of strangers."<sup>110</sup> Despite the agencies' best efforts, children could meet abuse, forced servitude, or rejection from western families. As previously described, some saw the orphan trains as simply an opportunity to acquire laborers at a low cost. Children could become nothing more than farm workers or maids in the house, and some were provided only an attic or a barn for lodging and were denied an education.<sup>111</sup> Child labor legislation had little impact on the orphan train movement. Author Marilyn Irvin Holt suggests that this was because legislation and reform regulated organizations like sweatshops, factories, mine work, saloons, and prostitution, not farm work. Laws mandating school attendance had much more visible effects on placing out because the families who took in children for the sole purpose of acquiring cheap labor were forced to send their workers to school.<sup>112</sup>

Even with caseworkers, some of the children faced abuse in many different forms.<sup>113</sup> Though the legal documents explicitly stated that children were to be treated as natural members of the family, this did not always occur, and with few ways for the agency to learn about the daily life of the orphans, problems would often go unnoticed and overlooked. In a letter to Barbara Easley, my great aunt and the daughter of Marjorie Bagley, Sister Marian Healy of the New York Foundling Hospital claimed that Bagley had "a very good life" with her new family and said nothing more on the subject.<sup>114</sup> In fact, Bagley faced emotional abuse from her alcoholic adoptive father Robert Roloff.<sup>115</sup> Gary D. Stevenson, Bagley's grandson and my father, described Roloff as "a difficult person with lots of problems" who "struggled with taking care of the children."<sup>116</sup> In a letter to orphan train historian Evelyn

Trickel, Bagley briefly mentioned her abuse and noted that she “more than once had to leave the house to get away from him.”<sup>117</sup> Her daughter, Shirley Stevenson, described the incidents in more detail, saying that Bagley was afraid of what her father might do to her when he became drunk. To escape him, she would often hide behind a piano. Stevenson says that the concept of agents visiting and checking on the children “is not true at all. There was no one who really cared about [Marjorie]...”<sup>118</sup> Stevenson’s harsh words for the system are understandable; the phenomenon was in many ways unsurprising. About 84,000 children were sent west in just 40 years, making steady contact between them and the CAS as well as the prevention of abuse unlikely.<sup>119</sup>

In the words of Alice Ayler, an orphan train rider, many westerners believed that the New York orphans had “bad blood” and that they could not be helped because of their parents’ supposed sins and heritage. Some parents prohibited their own children from even associating with the scorned orphans.<sup>120</sup> Local children would mockingly call Marjorie Bagley “that orphan kid.”<sup>121</sup> Bagley later remarked that the O’Shaughnessys, a family with whom she stayed for a few years, while Roloof sought better work, “didn’t make any attempt to make you feel like you were their child...They knew and I knew that their home was not my home and someday I was going to have to leave. I was always a ‘foster child.’”<sup>122</sup> Demonstrating their uneasiness about Bagley, the O’Shaughnessys would not permit her to play in their daughter’s room; she had her own room in the back.<sup>123</sup>

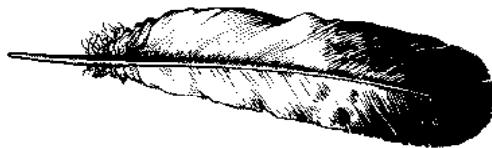
In addition to the distresses of displacement and neglect, children could be renamed at any time. Mrs. Roloff passed away during the process of formal adoption, but Mr. Roloff proceeded to legally adopt Marjorie Bagley anyway. At this time, Marjorie was not quite six years old and was still known by her birth name, Carmen Shanahan.<sup>124</sup> It was not until some point after the adoption that her name was changed to Majorie Jane Roloff. Repudiating the switch, Gary D. Stevenson commented, “I remember as a boy always feeling like that was wrong. I understand changing her last name so that she could feel more a part of the family, but I never

understood changing her first name.” After hearing this story as a very young boy, Stevenson pledged to his grandmother that if he had a daughter, he would name her Carmen. He did, in fact, keep the promise to his grandmother, naming me, his first child, Lesley Carmen Stevenson. In his view, Bagley’s whole identity had been stolen away at the impressionable age of six, a sentiment that was more than likely echoed in Bagley herself. Sure of this agreement, Stevenson asserted that “she felt like I did, that it was wrong to change her name like that, as if she was a dog, a piece of property.”<sup>125</sup> In possibly the strongest written evidence of Bagley’s beliefs, an emotional letter written to me as an infant, Bagley wrote, “I will always be so proud of your name. It will always seem to me like that baby Carmen was loved and brought back to the family she belonged in now.”<sup>126</sup> It was experiences like these, filled with humiliation, abuse, scorn, and disregard, that caused many riders of the orphan trains to feel the sharp sting of shame for the rest of their lives.

The emotional toll of riding on the orphan trains was difficult to measure and remains so to this day; however, one may reasonably conclude that the impact was huge and was overall very negative. To begin their distress, their biological families had not wanted them, their adoptive families did not welcome them, or their new towns chose to shun them. Of course any child could face a combination of these. For some of the children, the feelings of indignity were so strong that as adults that they tried to keep their heritage a secret.<sup>127</sup> According to Shirley Stevenson, when Marjorie asked her adopted sister Loretta, who had also come from the New York Foundling Hospital, about the meaning of “orphan,” Loretta explained but told her “she was never to tell anyone.” Stevenson remarked that “[Loretta] was so ashamed of it, and she let [Marjorie] grow up ashamed of it too...It is a part of their life they don’t want people to know about.”<sup>128</sup> Bagley noted later that her sister “was a very proud woman. She did not talk about [their] early life. She may not have shared it with her daughter.”<sup>129</sup> That Loretta’s shame was enough for her to conceal her history from her own daughter provides a shocking example of the magnitude of despair felt by some orphan train riders. In

spite of the many hardships faced by the riders, studying their retrospective interviews reveals that most believe their experiences were for the better. Gary D. Stevenson claimed that the system was a welcome chance, even with its difficulties, asking modern critics to “[c]onsider the alternative, if you’re an orphan and living in New York City in an orphanage and don’t have a family to love you and care for you and help you mature...That’s not an attractive alternative.”<sup>130</sup>

The orphan train movement undoubtedly changed its children, its agents, and the way America fought child poverty. The effort truly did accomplish much in removing children from the horrors of the city, and there were numerous orphans who led satisfactory lives. At the very least, the trains afforded them better chances during a time of very limited travel and communication, marking an improvement over almshouses and orphanages. Without the trains, most of the placed-out orphans would have remained in the slums, never improving their conditions. Nevertheless, its critical flaws were inescapable, and before long the system collapsed, as reformers sought to place youth in areas where they could be more easily monitored. The abuse faced by some children, as well as the shame that haunted many throughout their lives, corrupted the innovation and success of the trains. Extreme feelings of humiliation and ignominy have been so powerful for orphan train riders that they have sadly prevented many of the riders’ stories from being told. The movement’s goals and achievements succeeded to an extent; however, the emotional toll on the children was too often overlooked and constituted a major flaw in this noble attempt to alleviate child poverty in Progressive-Era cities. Overall, the orphan trains constituted an ingenious, though costly, solution to a massive problem in America.



## Notes

- <sup>1</sup> Annette R. Fry, The Orphan Trains, American Events (New York: New Discovery Books, 1994) p. 9
- <sup>2</sup> Al Eicher and Dave Eicher, "The Little Wanderers," Michigan History Magazine (January-February 2003), <http://find.galegroup.com/> (accessed November 9, 2009)
- <sup>3</sup> Julie Berebitsky, "Adoption," in Dictionary of American History ed. Stanley I. Kutler, 3rd ed. (New York: Charles Scribner's Sons, 2003), <http://galenet.galegroup.com/servlet/HistRC/> (accessed October 18, 2009)
- <sup>4</sup> Andrea Warren, We Rode the Orphan Trains (New York: Houghton Mifflin, 2001) p. 6
- <sup>5</sup> Eicher and Eicher
- <sup>6</sup> Warren, p. 6
- <sup>7</sup> Janet Graham, The Orphan Trains VHS (Alexandria: PBS Home Video, 1995)
- <sup>8</sup> Fry, p. 10
- <sup>9</sup> Graham
- <sup>10</sup> Fry, p. 10
- <sup>11</sup> Graham
- <sup>12</sup> Clark Kidder, "West by Orphan Train," The Wisconsin Magazine of History Vol. 87, no. 2 (Winter 2003-2004) p. 32, <http://www.jstor.org/> (accessed September 27, 2009)
- <sup>13</sup> Marilyn Irvin Holt, The Orphan Trains: Placing Out in America (Lincoln: University of Nebraska Press, 1992) p. 25
- <sup>14</sup> Kidder, p. 32
- <sup>15</sup> Charles Loring Brace, "The Lost Children of New York," in Annals of American History, <http://america.eb.com/> (accessed October 17, 2009)
- <sup>16</sup> Charles Loring Brace, "The Children's Aid Society," in Annals of American History, <http://america.eb.com/> (accessed October 17, 2009)
- <sup>17</sup> Holt, p. 26
- <sup>18</sup> *Ibid.*, p. 24
- <sup>19</sup> Fry, p. 9
- <sup>20</sup> Monique Bourque, "Poor Relief 'Without Violating the Rights of Humanity': Almshouse Administration in the Philadelphia Region, 1790-1860," in Down and Out in Early America ed. Billy Gordon Smith (University Park: Pennsylvania State University Press, 2004) p. 195, <http://netlibrary.com>

(accessed November 27, 2009)

<sup>21</sup> Fry, p. 9

<sup>22</sup> Bourque, pp. 191, 204

<sup>23</sup> John E. B. Myers, Child Protection in America: Past, Present, and Future (Oxford: Oxford University Press, 2006) pp. 13-14, <http://www.netlibrary.com> (accessed November 27, 2009)

<sup>24</sup> “Jane Addams,” in Activists, Rebels, and Reformers by Phillis Engelbert, ed. Diane Sawinski (Detroit: U\*X\*L, 2001) pp. 3-4

<sup>25</sup> Robert Thornton Grimm Jr., “Forerunners for a Domestic Revolution: Jane Addams, Charlotte Perkins Gilman, and the Ideology of Childhood,” Illinois Historical Journal 90, no. 1 (Spring 1997) pp. 52-53, <http://www.jstor.org/> (accessed September 11, 2009)

<sup>26</sup> Marian J. Morton, “Orphans and Orphanages,” in Encyclopedia of the United States in the Nineteenth Century (Charles Scribner’s Sons, 2001), <http://galenet.galegroup.com/> (accessed October 17, 2009)

<sup>27</sup> Fry, p. 9

<sup>28</sup> Morton

<sup>29</sup> Myers, pp. 14-15

<sup>30</sup> Kidder, p. 32

<sup>31</sup> Morton

<sup>32</sup> Susan Whitelaw Downs and Michael W. Sherraden, “The Orphan Asylum in the Nineteenth Century,” The Social Service Review 57, no. 2 (June 1983) p. 273, <http://www.jstor.org/> (accessed October 19, 2009)

<sup>33</sup> Warren, p. 6

<sup>34</sup> Berebitsky

<sup>35</sup> Myers, pp. 58-59

<sup>36</sup> Clay Gish, “Rescuing the ‘Waifs and Strays’ of the City: The Western Emigration Program of the Children’s Aid Society,” Journal of Social History 33, no. 1 (Fall 1999), <http://galenet.galegroup.com> (accessed October 17, 2009)

<sup>37</sup> Holt, pp. 47-48

<sup>38</sup> Brace, “The Children’s Aid Society”

<sup>39</sup> Warren, p. 9

<sup>40</sup> Fry, p. 16

<sup>41</sup> Warren, p. 9

<sup>42</sup> Brace, “The Children’s Aid Society”

<sup>43</sup> Holt, p. 46

- <sup>44</sup> Fry, p. 15  
<sup>45</sup> Kidder, pp. 32-33  
<sup>46</sup> Gish  
<sup>47</sup> Warren, p. 9  
<sup>48</sup> Holt, p. 47  
<sup>49</sup> Anna Gersh, "Adoption," in Social Issues in America ed.  
James Ciment (Armonk: Sharpe Reference, 2006) p. 26  
<sup>50</sup> Kidder, pp. 33  
<sup>51</sup> Holt, pp. 166-167  
<sup>52</sup> Warren, p. 9  
<sup>53</sup> Gish  
<sup>54</sup> Warren, pp. 10, 24, 25  
<sup>55</sup> Eicher  
<sup>56</sup> Graham  
<sup>57</sup> Warren, pp. 26, 29  
<sup>58</sup> Ibid., pp. 26, 30  
<sup>59</sup> Holt, p. 59  
<sup>60</sup> Warren, p. 30  
<sup>61</sup> Kidder, p. 34  
<sup>62</sup> Ibid., p. 33  
<sup>63</sup> Holt, pp. 52-55  
<sup>64</sup> Kidder, p. 33  
<sup>65</sup> Warren, p. 19  
<sup>66</sup> Graham  
<sup>67</sup> Warren, p. 13  
<sup>68</sup> Graham  
<sup>69</sup> Eicher  
<sup>70</sup> Holt, p. 49  
<sup>71</sup> Warren, pp. 29-30  
<sup>72</sup> Kidder, pp. 34-35  
<sup>73</sup> Graham  
<sup>74</sup> Downs, p. 283  
<sup>75</sup> Kidder, p. 35  
<sup>76</sup> Graham  
<sup>77</sup> Gish  
<sup>78</sup> Warren, pp. 19-20  
<sup>79</sup> Fry, pp. 46, 52-54  
<sup>80</sup> Holt, p. 166  
<sup>81</sup> Fry, p. 50  
<sup>82</sup> Ibid., p. 36  
<sup>83</sup> Warren, p. 15  
<sup>84</sup> Holt, pp. 108-109

- <sup>85</sup> Fry, pp. 37-38
- <sup>86</sup> Holt, p. 109
- <sup>87</sup> Fry, p. 37
- <sup>88</sup> Warren, p. 15
- <sup>89</sup> Kidder, p. 33
- <sup>90</sup> Fry, pp. 36, 40-43
- <sup>91</sup> Church of the Sacred Heart, "Certificate of Baptism of Carmen Shanahan," July 9, 1914
- <sup>92</sup> The New York Foundling Hospital, "Deed of Adoption of Carmen Shanahan," April 17, 1920
- <sup>93</sup> Marjorie Jane Bagley to Evelyn Trickel, September 15, 1986
- <sup>94</sup> Ibid.
- <sup>95</sup> The New York Foundling Hospital, "Indenture of Carmen Shanahan," June 30, 1916
- <sup>96</sup> The New York Foundling Hospital, "Deed of Adoption of Carmen Shanahan"
- <sup>97</sup> Morton
- <sup>98</sup> Holt, p. 28
- <sup>99</sup> Berebitsky
- <sup>100</sup> Fry, p. 51
- <sup>101</sup> Charles Loring Brace IV, letter to the editor, New York Times, January 5, 1991, <http://find.galegroup.com/> (accessed October 18, 2009)
- <sup>102</sup> Holt, p. 181
- <sup>103</sup> Fry, p. 58
- <sup>104</sup> Holt, pp. 113-115, 166
- <sup>105</sup> Fry, p. 72
- <sup>106</sup> Kidder, p. 38
- <sup>107</sup> Graham
- <sup>108</sup> Richard Wexler, letter to the editor, New York Times December 15, 1990, <http://find.galegroup.com/> (accessed October 18, 2009)
- <sup>109</sup> Holt, p. 52
- <sup>110</sup> Graham
- <sup>111</sup> Warren, pp. 6, 15
- <sup>112</sup> Holt, pp. 168-169
- <sup>113</sup> Warren, p. 15
- <sup>114</sup> Marian Healy to Barbara Easley, September 25, 1986
- <sup>115</sup> Bagley to Evelyn Trickel
- <sup>116</sup> Gary D. Stevenson, interview by author, Mr. Stevenson's home, January 18, 2010



- <sup>117</sup> Bagley to Evelyn Trickel  
<sup>118</sup> Shirley Stevenson to the Stevenson Children, October 27, 1986  
<sup>119</sup> Holt, p. 5  
<sup>120</sup> Graham  
<sup>121</sup> Stevenson to the Stevenson Children  
<sup>122</sup> Bagley to Evelyn Trickel  
<sup>123</sup> Stevenson to the Stevenson Children  
<sup>124</sup> The New York Foundling Hospital, “Deed of Adoption of Carmen Shanahan”  
<sup>125</sup> Gary D. Stevenson, interview by author  
<sup>126</sup> Marjorie Jane Bagley, letter to the author, 1993  
<sup>127</sup> Warren, p. 13  
<sup>128</sup> Stevenson to the Stevenson Children  
<sup>129</sup> Bagley to Evelyn Trickel  
<sup>130</sup> Gary D. Stevenson, interview by author

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Bagley, Marjorie Jane. Letter to the author, 1993

This letter was written by my great-grandmother to me when she first visited me after I was born. With it she gave me a handkerchief and a pocket watch owned by her adopted mother. She was fairly healthy when she wrote the letter, but shortly thereafter she began to succumb to Alzheimer’s, so this is essentially all I have to know how she felt about our shared name. I believe it proves she was very upset by the change and that she felt as though she herself had to change because of it.

Bagley, Marjorie Jane, Marjorie Jane Bagley to Evelyn Trickel, September 15, 1986

Marjorie’s letter to Ms. Trickel provides a factual, first-hand account of her life and the hardships she faced. This document presents a watered-down version of the same story told by Shirley Stevenson in a letter to her children. It is also one of the first times Marjorie was willing to tell her story.

Berebitsky, Julie, “Adoption,” in Dictionary of American History, edited by Stanley I. Kutler, 3rd ed. New York: Charles Scribner’s Sons, 2003, <http://galenet.galegroup.com> (accessed October 18, 2009)

This article provides information about the legal aspects of adoption and its predecessors. It mentions indentures and wills and discusses important legislation that regulated adoptions.

Bourque, Monique. "Poor Relief 'Without Violating the Rights of Humanity': Almshouse Administration in the Philadelphia Region, 1790-1860," in Down and Out in Early America, edited by Billy Gordon Smith, pp. 189-212, University Park: Pennsylvania State University Press, 2004, <http://netlibrary.com> (accessed November 27, 2009)

This essay focuses on the operations of almshouses and poorhouses, particularly in the Philadelphia area, and provides good background information on this early type of reform.

Brace, Charles Loring, "The Children's Aid Society," in Annals of American History <http://america.eb.com> (accessed October 17, 2009)

Brace's writing describes his plans for helping the poor, his feelings of Christian duty, and his belief that urban youth, though trapped in poverty, can be saved.

Brace, Charles Loring, "The Lost Children of New York," in Annals of American History <http://america.eb.com> (accessed October 17, 2009)

Brace describes how the American poor class is much more dangerous than those of other industrial cities in Europe. His writing is a very clear indicator of his motives, goals, and beliefs.

Brace, Charles Loring, IV, letter to the editor, New York Times, January 5, 1991, <http://find.galegroup.com/> (accessed October 18, 2009)

Brace IV writes in response to Richard Wexler's letter to the editor, claiming that while the system had its share of shortcomings, the leaders were not driven by a hatred of Catholics or of the poor in general.

Church of the Sacred Heart, "Certificate of Baptism of Carmen Shanahan," July 9, 1914

This birth certificate provides names for Carmen Shanahan's (Marjorie Roloff's) biological parents as well as her date of birth.

Downs, Susan Whitelaw, and Michael W. Sherraden, "The Orphan Asylum in the Nineteenth Century," The Social Service Review 57, no. 2 (June 1983) pp. 272-290, <http://www.jstor.org/> (accessed October 19, 2009)

This article gives a long history of the care of orphans, focusing on the St. Louis Protestant Orphan Asylum.

Eicher, Al, and Dave Eicher, "The Little Wanderers," Michigan History Magazine (January-February 2003), <http://find.galegroup.com/> (accessed November 9, 2009)

Stories from orphan train riders and general information about the movement and the practice make this article useful. It reinforces many of the ideas in other works.

Fry, Annette R., The Orphan Trains American Events, New York: New Discovery Books, 1994

Annette R. Fry's book describes the process of riding on an orphan train in great detail and provides background information on the societies, particularly the Children's Aid Society.

Gersh, Anna, "Adoption," in Social Issues in America edited by James Ciment, pp. 24-31, Armonk: Sharpe Reference, 2006

This article provides a history of the legal development of adoption and some information on the change from institutional care to placement in homes. It helped provide a solid background on the concept of adoption.

Gish, Clay, "Rescuing the 'Waifs and Strays' of the City: The Western Emigration Program of the Children's Aid Society," Journal of Social History 33, no. 1 (Fall 1999), pp. 121-, <http://galenet.galegroup.com/> (accessed October 17, 2009)

This article provides a detailed account of the motives, actions, and effects of the Children's Aid Society and dispels commonly-held perceptions of the society.

Graham, Janet, The Orphan Trains VHS, Alexandria: PBS Home Video, 1995

This video provides general information as well as captivating stories told by actual orphan train riders. It is very helpful in finding interesting facts as well as captivating true stories.

Grimm, Robert Thornton, Jr., "Forerunners for a Domestic Revolution: Jane Addams, Charlotte Perkins Gilman, and the Ideology of Childhood, 1900-1916," Illinois Historical Journal 90, no. 1 (Spring 1997) pp. 47-64, <http://www.jstor.org/> (accessed September 11, 2009)

This article describes in detail the philosophies about children of women reformers Jane Addams and Charlotte Perkins Gilman.

Healy, Marian, Letter to Barbara Easley, September 25, 1986

Healy's letter to my great-aunt Barbara Easley shows just how little the New York Foundling Hospital knew about Marjorie's life with the Roloffs. They believed everything was satisfactory, when other letters from Marjorie and her daughter Shirley reveal a different story of abuse.

Holt, Marilyn Irvin, The Orphan Trains: Placing Out in America Lincoln: University of Nebraska Press, 1992

Holt writes about the entire orphan train movement, beginning in its origins and reasons, carrying through the actual process, and ending at the culmination of the practice. Many of the institutions are considered, as well as the impact of women, religion, and race.

"Jane Addams," in Activists, Rebels, and Reformers by Phillis Engelbert, edited by Diane Sawinski, pp. 1-8, Detroit: U\*X\*L, 2001

This article examines Jane Addams' life and her settlement house movement.

Kidder, Clark, "West by Orphan Train," The Wisconsin Magazine of History Vol. 87, no. 2 (Winter 2003-2004) pp. 30-39, <http://www.jstor.org/> (accessed September 27, 2009)

Kidder writes in great detail about the process of riding on an orphan train, giving some information on its origins and death, but focusing mainly on the experience of the children.

Morton, Marian J., "Orphans and Orphanages," in Encyclopedia of the United States in the Nineteenth Century Charles Scribner's Sons, 2001, <http://galenet.galegroup.com/> (accessed October 17, 2009)

Morton's article offers information about orphanages and their development.

Myers, John E. B., Child Protection in America: Past, Present, and Future Oxford: Oxford University Press, 2006, <http://www.netlibrary.com> (accessed November 27, 2009)

This book contains information about how America dealt with its orphaned and impoverished children. It discusses almshouses, orphanages, the Children's Aid society, and settlement houses.

The New York Foundling Hospital, "Deed of Adoption of Carmen Shanahan," April 17, 1920

This deed of adoption proves that Marjorie Roloff was not adopted until many years after her indenture, and at that time she was still legally named Carmen Shanahan. It also explains how the adopted family was expected to treat their child.

The New York Foundling Hospital, "Indenture of Carmen Shanahan," June 30, 1916

The indenture records show how young Carmen was when she was sent to the Roloffs and explicitly states what an indenture meant for the New York Foundling Hospital and how the children were to be treated.

Stevenson, Gary D., interview by author, Mr. Stevenson's home, January 18, 2010

Gary D. Stevenson explained Marjorie's journey and exactly why and how her name change was so emotionally disturbing to her and her family. He also commented on why he believes the movement to be overall a positive option for orphan children.

Stevenson, Shirley, Letter to the Stevenson Children, October 27, 1986

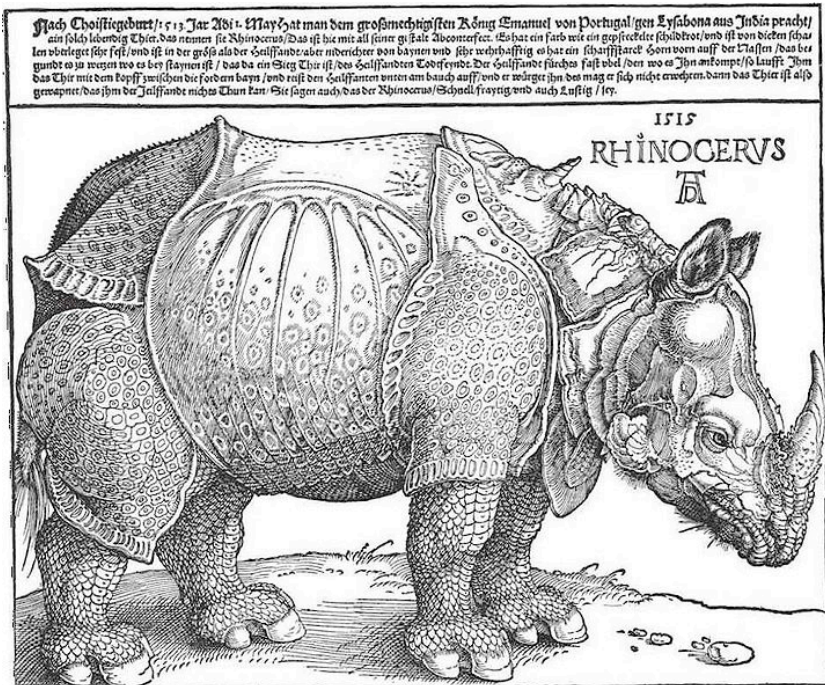
Shirley Stevenson's letter gives an alternate view of Marjorie's history that is in many cases contradictory to the one written by Marjorie herself. It focuses more on the emotional impact the experience has had on Marjorie and her family and gives a more gruesome picture of Marjorie's life with the Roloffs, subjects about which Marjorie does not say much in her letter.

Warren, Andrea, We Rode the Orphan Trains New York: Houghton Mifflin, 2001

Warren’s book explains in detail the process of the orphan trains and offers unique angles such as the stories of agents. It provides stories from the riders to supplement each part of the process.

Wexler, Richard, Letter to the editor, New York Times December 15, 1990, <http://find.galegroup.com/> (accessed October 18, 2009)

Wexler’s letter to the editor offers a scathing critique of Brace’s system and a contrasting view to opinions held by many who believe the movement to have been beneficial.



Winston Leonard Spencer Churchill, *The Gathering Storm*  
London: Houghton Mifflin, 1948, pp. 191-192

At the end of 1936 the increasing degeneration of the Parliamentary regime in Spain, and the growing strength of movements for a Communist, or alternatively an anarchist revolution, led to a military revolt which had long been preparing. It is part of the Communist doctrine and drill-book, laid down by Lenin himself, that Communists should aid all movements to the Left and help into office weak Constitutional, Radical, or Socialist Governments. These they should undermine, and from their failing hands snatch absolute power, and found the Marxist State. In fact, a perfect reproduction of the Kerensky period in Russia was taking place in Spain. But the strength of Spain had not been shattered by a foreign war. The Army still maintained a measure of cohesion. Side by side with the Communist conspiracy there was elaborated in secret a deep military counterplot. Neither side could claim with justice the title-deeds of legality, and Spaniards of all classes were bound to consider the life of Spain.

Many of the ordinary guarantees of civilised society had been already liquidated by the Communist perversion of the decayed Parliamentary Government. Murders began on both sides, and the Communist pestilence had reached a point where it could take political opponents in the streets or from their beds and kill them. Already a number of these assassinations had taken place in and around Madrid. The climax was the murder of Señor Sotelo, the Conservative leader, who corresponded somewhat to the type of Sir Edward Carson in British politics before the 1914 war. This crime was the signal for the generals of the Army to act. General Franco had a month before written a letter to the Spanish War Minister, making it clear that if the Spanish Government could not maintain the normal securities of law in daily life the Army would have to intervene. Spain had seen many *pronunciamentos* by military chiefs in the past. When, after General Sanjuro had perished in an air crash, General Franco raised the standard of revolt, he was supported by the Army, including the rank and file. The Church, with the noteworthy exception of the Dominicans, and nearly all the elements of the Right and Center adhered to him, and he became immediately the master of several important provinces. The Spanish sailors killed their officers and joined what soon became the Communist side. In the collapse of civilised government the Communist sect obtained control, and acted in accordance with their drill. Bitter civil war now began. Wholesale cold-blooded massacres of their political opponents, and of the well-to-do, were perpetrated by the Communists who had seized power. These were repaid with interest by the forces under Franco. All Spaniards went to their deaths with remarkable composure, and great numbers on both sides were shot. The military cadets defended their college at the Alcazar in Toledo with the utmost tenacity, and Franco's troops, forcing their way up from the south, leaving a trail of vengeance behind them in every Communist village, presently achieved their relief. This episode deserves the notice of historians.

## THE PENINSULAR WAR

Rishab Guha

### Introduction

Napoleon. The name conjures up grand marches across central Europe, great pitched battles on the land and sea, stubborn British opposition, and the doomed Russian adventure. Less commonly associated with the Napoleonic era is the second front, Napoleon's "Spanish Ulcer." Known as the Peninsular War, Napoleon's invasion of Iberia was the world's first real guerilla war, in which irregular insurgents, with British help, successfully defended their homeland against a vastly superior conventional army. Indeed, the very word *guerilla*, Spanish for "little war" was coined during this period. Despite this, when it is studied, most scholarship focuses on the efforts of the British regular armies led by Arthur Wellesley, the Duke of Wellington, and underestimates the effect of the guerillas.<sup>1</sup> This paper will seek to show the effects the guerillas had on the war, and to explain the reasons behind the successes they had.

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## Background

At the beginning of the Napoleonic period, the Spanish crown was a French ally, furnishing a good portion of the naval power for Napoleon's planned invasion of Britain.<sup>2</sup> However, the destruction of the Spanish and French fleets in 1805 by Horatio, Lord Nelson, off Trafalgar took with it the *raison d'être* of the Franco-Spanish alliance, and started the process that would turn Spain from Napoleon's ally into one of his objects of conquest.<sup>3</sup> Various factors eventually prodded Napoleon into attacking Spain, among them his paranoia, his desire to more effectively enforce his Continental System, and his economic embargo of Britain, which was only partly observed by Spain, and not at all by Portugal.<sup>4</sup> When he did launch his attack, it was more of a coup. French troops were already in Spain, ostensibly to fight the Portuguese. On February 16, 1808, French troops took control of several key Spanish fortresses, started to take control of Spanish cities, and began the process of installing a French-backed government. By May 10, the Bourbon King of Spain had been deposed, and replaced with Napoleon's brother, Joseph.

The war is usually dated as starting on May 2, 1808, with the *Dos de Mayo* rising, in which the citizens of Madrid rose up against the French invaders, killing 150 French soldiers. The rising and the resulting French reprisals kicked off a war in which the remnants of Spain's army fought along with newly-formed guerilla bands, and British expeditionary forces, in a successful effort to evict Napoleon from the Peninsula. The war lasted until 1814, involved hundreds of thousands of men, and showed the world the disproportionate effectiveness of guerilla warfare.

## Guerilla Organization

Even within the Spanish forces arrayed against Napoleon, there were a substantial number of regular soldiers who had served in the Spanish Army before the French overthrow and

installation of Joseph as king. These men fought the French using conventional tactics in pitched battles, but their efforts were mostly unsuccessful. For example, in the Fall of 1809, the Spanish rebel government, known as the Central *Junta*, tried to capitalize on recent guerilla successes, by ordering a massive conventional offensive, with the aim of retaking Madrid. When the campaign was over, after several bloody pitched battles, the result was a disaster for the Spanish, with the loss of two-thirds of their 52,000-man army. This left the formerly safe province of Andalusia open for attack, causing Wellington, the commander of British forces in the Peninsula, to consider leaving.<sup>5</sup> It was worse for the Spanish when guerilla troops tried to engage the French on the latter's terms—in November 1810, forces under the erstwhile guerilla commander Francisco Espoz y Mina fought the French in a pitched battle, and they were nearly annihilated.<sup>6</sup> As the Spanish soon realized, the key to their success lay in guerilla tactics.

One of the major strengths of the guerilla campaign was its decentralized and modular nature, for there was no single type of guerilla or doctrine for guerilla warfare. Instead, there was a collection of ideas and practices that adjusted and evolved to suit the situations of each of the areas in which the guerillas operated.<sup>7</sup> Certain parts of Spain, such as Galicia and the Basque country, had been accustomed to separatist sentiment, and thus already had a substantial amount of the political infrastructure for autonomous government in place among the populace. In these areas, the resistance movement took on a far more organized shape than elsewhere.<sup>8</sup> This flexibility and lack of centralized authority applied to the lower levels of the guerilla hierarchy as well—though most guerilla bands had a charismatic and popular leader, he was by no means irreplaceable or essential for their functioning. Even when the French were able to kill a guerilla leader, he was easily replaced. After they eliminated the guerilla leader Francisco Sanchez, who operated in the area of La Mancha, he was simply replaced by his neighbor Manuel Hernandez.<sup>9</sup> When they killed another guerilla, Mina, (not the aforementioned Espoz y Mina) his relative Francisco Espoz Ilundain took his place.<sup>10</sup> Though this bottom-up approach to the resistance was obviously an unintended

consequence of the dissolution of central authority, it became one of the movement's greatest assets in the wake of Napoleon's sudden attack, allowing the fight to continue throughout the Peninsula irrespective of setbacks encountered by individual provinces. Indeed, when some tried to centralize the conduct of the war, as in the aforementioned autumn offensive of 1809 ordered by the Central *Junta*, the results were very often counterproductive.

This lack of centralization was not without its downsides. As previously shown, the Spanish were not very effective in engaging the French on conventional terms, partly because they lacked the national and organizational cohesion required to recruit and direct a proper field army. This was most apparent in the constant struggle by the Spanish to secure enough muskets for their troops: in the early part of the war, the French seized the main Spanish musket manufactory at Oviedo, setting off a shortage that would continue for the rest of the war.<sup>11</sup> Other manufactories and storehouses were also occupied and destroyed by the French, and given their stationary nature and position near towns and forts, there was little the guerillas could do to stop them.<sup>12</sup> The Spanish *Junta* desperately tried to find enough muskets to supply the continuing war effort, first by attempting to forcefully requisition all the muskets it could. Though this measure yielded some success, it did not provide nearly enough muskets for the rapidly expanding war effort, in large part because of the inability of the *Junta* to exercise the coercive force necessary to force the handovers—the woes of a decentralized government.<sup>13</sup> After trying, and failing, to import muskets from various foreign suppliers, the *Junta* tried to start musket production in southern Spain, where it might be safer from French interference. However, with the intricate tasks of organizing the construction of factories, assembling the required artisans, and obtaining the necessary materials, the effort proved beyond the administrative capabilities of the *Junta*. Moreover, the French soon found and destroyed nearly all of the incipient factories.<sup>14</sup> It was only through the fortunate arrival of British aid that the Spanish managed to find enough muskets to continue their war effort.<sup>15</sup>

### Guerilla Effectiveness

So far, it has been demonstrated that the guerillas were *not* good at any kind of conventional warfare, or anything that involved a centralized, organized command. However, the guerillas were exceptionally effective when it came to many other aspects of the war: holding French forces down in occupied provinces, steadily bleeding the French troops dry, disrupting French communications and intelligence, and, when finally forced to fight for their homes, doing so fanatically, in ferocious defenses that the historian David Gates has compared to Stalingrad.<sup>16</sup>

### Guerilla Harassment

The French armies may have entered Spain, but it was far from conquered. After a French army had defeated the Spanish, (and towards the latter part of the war the British), conventional forces defending a province, its problems had merely begun. One of the main objectives of guerillas throughout the Peninsula was to stop occupying armies from being able to expand offensively, forcing them to react and defend against guerilla incursions.<sup>17</sup> In this way, offensive armies that had conquered a province were forced to remain in place, instead of being able to take part in further offensives. For example, in late 1809, King Joseph (Napoleon's brother, and his appointed King of Spain) ordered a vast French offensive into the province of Andalusia, committing over 80,000 troops to an area defended by only about 32,000 Spanish troops. Despite their numerical advantage, the French invaders stopped before they could complete their conquest, halted by the constant harrying by Spanish guerilla forces.<sup>18</sup> The major stronghold of Cadiz remained under Spanish control, and Spanish forces started to eat away at the French. Joseph's offensive had missed the prize of Cadiz, made some fast-eroding territorial gains in Andalusia, and, most importantly, lost the offensive services of an 80,000-man

army, now devoted to merely holding what it had already won.<sup>19</sup> Similar situations were common across Spain. In 1811, after he took the stronghold of Tarragona, the French Marshal Suchet was preparing to march on the city of Valencia, but was forced to leave two-thirds of his 70,000 man army behind in order to defend his holdings.<sup>20</sup> At other times, guerillas occupied French armies through active conflict—in 1810, the guerillas played a game of back-and-forth with the French in the Asturias, with the main city of Oviedo changing hands three times in two months.<sup>21</sup> The effect was the same—the deflection of an army that had originally been intended for rapid conquest.

This was far from the normal pattern of Napoleon's wars. Napoleon, and by extension the rest of the French military command structure, were used to being able to employ one army to conquer and pacify large swathes of land, and expected that after winning a conventional battle, they would be able to move on, and conquer even more. In Spain, by contrast, offensive armies moved into single provinces only to disappear, replaced by dwindling, constantly embattled garrisons. As Charles Esdaile, an acknowledged expert on the Peninsular War has written: "In the campaigns of 1805-1807, French armies had swept across Germany, Austria, Bohemia and Poland with scarcely a thought for the safety of their couriers, foraging parties and lines of supply, whereas in Spain Napoleon's troops had to garrison every square inch of territory they conquered and even then could not sleep safe in their beds."<sup>22</sup> It was guerilla warfare that allowed Spain to do what the great powers of Europe could not—resist Napoleon.

Of course, in order for the guerillas to hold the French in position, they had to be constantly active, harassing French forces, and steadily bleeding them out. The Spanish knew they would have no chance attacking the main French forces and fortified positions, so they stayed on the outskirts, picking off targets of opportunity. Alberto de Rocca, an officer attached to the French Second Hussars wrote that the French were constantly

assailed by clouds of armed mountaineers, who, never coming near to fight in closed ranks, or body to body, retreated from rock to rock,

on heights, without ceasing to fire even in flying [retreating]...The soldiers wounded, sick or fatigued who remained behind the French columns, were immediately murdered.<sup>23</sup>

Another officer, Heinrich von Brandt, a Prussian assigned to a Polish army helping the French effort in Spain, showed the psychic effect this constant harassment had on the French forces:

The French were obligated to be constantly on their guard against an enemy who, while continually flying, always reappeared, and who, without actually being seen, was everywhere. It was neither battles nor engagements which exhausted their forces, but the incessant molestations of an invisible enemy who, if pursued, became lost among the people, out of which he reappeared immediately afterwards with renewed strength. The lion in the fable, tormented to death by a gnat, gives us a true picture of the army at that period.<sup>24</sup>

The guerillas were unrelenting, attacking couriers, supply trains, and foragers, never letting up the pressure on the beleaguered French, forcing them to retreat out of the countryside, and into a network of fortified strongholds.<sup>25</sup> Indeed, in some cases, the French were forced to evacuate entire provinces. By mid-June of 1809, after much of the French army in Galicia and the Asturias had left to fight the British under Wellington, the insurgents made life so difficult for the remaining garrisons that they had to evacuate the provinces.<sup>26</sup>

The numbers are shocking—at the peak of the guerilla campaign, the French lost around 100 men a day for four years, a total of about 146,000 casualties.<sup>27</sup> Individual armies took significant hits: from the beginning of 1812 to July 1813, the French army in eastern Spain lost a third of its manpower, decreasing from 75,000 to 50,000 men, despite fighting no major conventional battles.<sup>28</sup> Individual units took even greater losses: in 1811, after being reinforced, the 4th Battalion of the 114th Regiment lost 600 of its 700 men before it could even reach its regiment.<sup>29</sup> Nor was this especially rare: the 116th Regiment's 3rd battalion lost 600 of 800 men, while the 4th battalion lost 800 out of 1,000.<sup>30</sup> Though unorthodox, the guerilla actions were effective in their own right. By the end of the war, the guerillas had killed more French troops than the British regular armies had.<sup>31</sup>

## Intelligence and Communications Disruptions

Though the guerillas thinned the French ranks considerably, they also had a huge effect on the war when they captured instead of killed. It can be difficult for the modern observer, used to instant telecommunications, to appreciate the challenges of communication in the Iberian Peninsula. All communications had to be carried by hand through the mountainous and difficult terrain of the Peninsula, terrain that very often made horse travel impossible, forcing French couriers to travel on foot.<sup>32</sup> These pre-existing problems were exacerbated by the guerillas, who made it a point to target couriers whenever possible.<sup>33</sup> Indeed, many guerilla commanders realized that by capturing couriers and giving the resulting intelligence and information to British and Spanish regular forces, they could have a greater effect than through simply harrying the French communications system.<sup>34</sup> The most dramatic instance of this was on the grand strategy/political level: by late 1812, guerillas had managed to slow communications between France and Spain to such an extent that King Joseph did not know about Napoleon's retreat from Russia (which began in mid-October) until early January 1813.<sup>35</sup> Similar effects were felt on the battlefield, where the guerillas very often combined their harassment tactics with an early form of information warfare. When the French General Duhesme marched from his base at Barcelona to attack a Spanish-held fortress at Gerona, he easily cleared a path to the fortress, scattering the swarms of the guerillas before him. However, as he advanced, he found that the guerillas had coalesced behind him, severing his communications with his base.<sup>36</sup> Lacking the ability to call for reinforcements and artillery, Duhesme was forced to retreat from Gerona after a desultory attempt at taking the fortress. In another incident in 1809, insurgents surrounded the city of Villafranca, occupied by a French army led by Marshall Ney. The insurgents lacked the strength to lay siege to the city, so they did the next best thing—they cut its communications, forcing King Joseph to send another 7,000 men to relieve the city.<sup>37</sup> When combined with traditional

guerilla tactics of harassment, information warfare was incredibly powerful; when the guerillas acted in concert with conventional troops, it was even more so.

The campaigns of July 1809 provide the best example of the degree to which guerilla disruptions and capture of communications and intelligence could affect the conventional war. They began when the British general Wellington started planning an offensive into Spain from his base in Portugal. If they were to counter this incursion, the French needed to know Wellington's point of attack, but guerilla disruptions made this impossible.<sup>38</sup> Because of his lack of food (once again, caused by guerilla disruptions), and this inability to devise a defensive strategy, the French general Victor was forced to abandon large stretches of territory and retreat towards Madrid.<sup>39</sup> In planning his attack Wellington worried about residual French forces menacing his flank as he pushed towards Madrid—at least until the guerillas captured the French general Jean Batiste Franceschi, and with him intelligence that allowed Wellington to proceed with his attack unmolested.<sup>40</sup> Napoleon soon sent French reinforcements to Spain, and they clashed with British armies at the Battle of Talavera. One of the hardest-fought and most famous battles of the Peninsular War, Talavera was a British victory, and afterwards the British officers wanted to push their advantage and march on Madrid. However, unbeknownst to the British, a 50,000-man French army with enough firepower to annihilate them was gathering not far away.<sup>41</sup> Once again the guerillas came to the rescue. They had intercepted a letter from King Joseph to the French general Soult, and brought it to the Spanish regular army commander Cuesta, who immediately forwarded it to Wellington.<sup>42</sup> Realizing his peril, Wellington ordered a full retreat out of Spain. The British hopes of conquering Madrid and eventually the Peninsula were dashed, but the British army lived to fight another day, thanks to the intercession of the guerilla fighters. The guerillas repeatedly provided the edge in intelligence and communications that allowed the British and Spanish regular armies to stay one step ahead of their French adversaries.



## Siege Warfare

Skilled though they were at unconventional harassment and information warfare, sometimes the guerillas were forced to fight in a more conventional setting, when their homes and bases were brought under siege. Part of the motivation of these fighters was genuine patriotism, but the popular participation in many of the sieges owed a good deal to fear—fear of French retribution for guerilla acts.<sup>43</sup> Though there were many instances of heroic defenses against French sieges, two examples stand out: the two Sieges of Saragossa (also known as Zaragoza), and the Siege of Gerona (otherwise known as Girona).

In 1808, when the French commander Charles Lefebvre-Desnouettes attacked the city of Saragossa, he was expecting to have an easy time of it<sup>44</sup>—he had easily scattered the defending Spanish armies in a few field battles leading up to the siege itself, and faced little resistance as he marched on the city.<sup>45</sup> He was soon given far more than he bargained for—the people of Saragossa rallied around their charismatic and popular leader Joseph Palafox,<sup>46</sup> and mounted a fierce defense of the city. Palafox rallied about 5,000 armed peasants, as well as about 6,000 recently-recruited and semi-trained militia to defend his city from 13,000 French attackers.<sup>47</sup> Following ferocious fighting, in which the French took over half the city before being pushed back by the defenders, they were forced to retreat. They had lost 3,500 men; Palafox had lost more than half of his troops.<sup>48</sup> The siege soon filtered into the Spanish national consciousness: the story of the heroine Agustina Zaragoza, who purportedly saved the city by firing a cannon directly into the faces of an advancing French column after it had killed all the gunners (one of whom, in the more romantic telling of the story, was Agustina's lover), became well known throughout Spain, and even found its way to England.<sup>49</sup> Charles Richard Vaughan, an Englishman who witnessed the battle later wrote that

The siege of Zaragoza...considered with reference to the superiority of the means of annoyance in possession of the enemy, to the utter incapability of the place to resist a regular, and continued attack, to

the instances of collective and individual courage, to the patience and heroism of its defenders of either sex, and in every situation of life, can be deemed second to none recorded in the annals of ancient, or modern times.<sup>50</sup>

In Germany, Palafox was compared to Arminius,<sup>51</sup> the German leader who had annihilated invading Roman legions, ending the threat of Roman Incursion into Germany. Already Saragossa had become a symbol of Spanish resistance to tyranny—and this was only the first round.

The first siege had been during the summer of 1808, and by November, the French were back to try their luck again. Palafox still commanded the Spanish defenders, now with 34,000 troops and 10,000 armed peasants, facing 38,000 French attackers, commanded by the French General Moncey.<sup>52</sup> The fighting was far more fierce than in the previous battle, with both sides savagely contesting the city.<sup>53</sup> French artillery devastated the town, opening up breaches that were quickly filled by troops. After an especially heavy barrage, a French soldier wrote that:

We had hoped that the Spanish would have been intimidated by the magnitude of this disaster...but our sudden attack only increased their fury. They contested every inch of ground...We had to pursue them to the very roofs...and those of us who were below saw many fling themselves from the top...rather than yield to their conquerors.<sup>54</sup>

When the dust had cleared, the Spanish defenders had lost 24,000 soldiers, in addition to 30,000 civilian deaths.<sup>55</sup> A third of the city had been completely destroyed in the fighting and the rest was a smoking ruin.<sup>56</sup> Though they had been unable to hold the city, the Spanish defenders had created a symbol that would inspire resistance for the rest of the war.<sup>57</sup>

The other major siege of the war was the Siege of Gerona. Technically, it was the Third Siege of Gerona, but the previous French attempts to capture the fortress had been desultory and puny compared to the eight-month-long struggle that started in May of 1809.<sup>58</sup> The initial French attack force numbered about 10,000 men and was lead by General Verdier, who had been involved with the Siege of Saragossa, while the Spanish defenders had around 6,000 men and were led by Mariano Alvarez.<sup>59</sup> Verdier,

chastened by his experience at Saragossa began to invest various redoubts surrounding Gerona, and started the bombardment of the city.<sup>60</sup> After Verdier's first assault was repelled in July, with his army taking 1,000 casualties for no gain, he pulled back and continued bombarding the city. For the next five months, both sides poured troops into the siege, with the Spanish sending forth column after column in an attempt to relieve the beleaguered defenders, and the French doing all they could to keep the city under complete siege.<sup>61</sup> Finally, in December of 1809, starving, sick, and out of ammunition, the garrison surrendered to the French. The original 6,000-man garrison had been brought down to 1,000 men, and half of Gerona's 13,000 civilians had been killed. The French lost about 14,000 men out of the 34,000 they had committed to the siege.<sup>62</sup> Skilled at making the French feel unwelcome through guerilla tactics, the Spanish people fought even harder when forced to defend their homes.

### The Spanish Terrain

What was it that made the guerilla and popular war effort in Spain so successful? For one thing, the terrain of Spain was tailor-made for a successful guerilla effort—not just physically and geographically, but in terms of popular support. Taken together, these features made the Spanish countryside an ideal one for an irregular war, and the guerillas used it to its full potential.

The Spanish physical terrain, a combination of hilly and mountainous terrain, interspersed with inhospitable scrubland, was perfect for guerilla warfare.<sup>63</sup> The mountains and mountain chains created natural chokepoints, providing ideal ambush spots for guerillas familiar with the terrain and geography of the area.<sup>64</sup> The scrubland was nearly impossible terrain for an invading army, as it provided little to no sustenance. It has been estimated that an army would not be able to find enough to support itself in about 80 percent of the Iberian Peninsula.<sup>65</sup> The general harshness of the terrain also helped to neutralize some of the French army's biggest

advantages: cavalry and artillery. The rough terrain made moving these troops exceedingly difficult for both sides. While operating in Portugal, the British General Sir John Moore had to send his artillery train by an alternate route from his main army, delaying its arrival at their destination by three weeks.<sup>66</sup> Because they were unable to use cavalry and artillery to their full effectiveness, the French were reliant on infantry to engage in counter-insurgent operations, lessening their advantage vis-à-vis the Spanish.<sup>67</sup> The geographical shape of Spain helped as well. The theater was a peninsula bounded by water on three sides, making it easy for the British Royal Navy (which had complete naval superiority) to supply Spanish and British armies, as well as land amphibious raiders anywhere it pleased along Spain's long coast.<sup>68</sup> The Iberian Peninsula was a giant trap for Napoleon's armies, negating their advantages, while playing to the strengths of their Anglo-Iberian foes.

Though the physical geography of the Iberian Peninsula played a fairly large role in the success of the guerillas, they owed an even greater debt to the human terrain. Spaniards from nearly all social classes rallied around the war effort, and supported the guerillas.<sup>69</sup> Recall that the Prussian officer Henrich von Brandt wrote how the guerilla "if pursued, became lost among the people, out of which he reappeared immediately afterwards with renewed strength."<sup>70</sup> The Spanish people were invigorated by a new, anti-Napoleonic nationalism, as is evidenced by the bevy of anti-French, pro-resistance literature from this time.<sup>71</sup> A poem from the period, *Al Empecinado*, extols the virtues of the guerillas, who are "bathed in the blood of the enemies of Spain," calling them "immortal patriots."<sup>72</sup> A popular song from that period shows the support of women for the war effort, promising that "He who wins in the fight / then wins in love."<sup>73</sup> Indeed, women took up the war effort enthusiastically, providing a great deal of logistical support, and in some cases, even commanding guerilla bands.<sup>74</sup> As Charles Richard Vaughan wrote during the Siege of Saragossa: "The loss of women and boys during the siege was very great, and fully proportionate to that of men, in fact they were always the most forward; and the difficulty was to teach them a prudent, and proper, sense of their

danger.”<sup>75</sup> As later guerilla actions throughout history would prove, broad popular support, what modern military planners would call “hearts and minds,” is an essential prerequisite for any successful guerilla war, and occupied Spain was firmly behind its people in arms.

### French Counterinsurgency

Of course, the French had a part to play in the success of the guerillas as well. In attempting to stop the guerillas, they were hampered by several mistakes of their own making—doctrinal errors, miscalculations, and above all, a severe shortage of manpower.

The one thing the French forces in the Peninsula needed to be able to fight the guerillas more effectively was more “boots on the ground.” Napoleon’s initial invasion of Spain resonates with some modern experience. He went into the country with far too few troops, confident that if he took the capital in a quick conventional battle, the rest of the country would follow.<sup>76</sup> Modern history shows just how doomed to failure this approach was, something Napoleon found out as well. In the province of Navarre, one of the hotspots of the rebellion, the commanding French General Clausel said he would need at least 20,000 troops to pacify and control the province. For the entirety of the war, the garrison strength of Navarre hovered around 7,000 men, and never exceeded 8,000.<sup>77</sup> At that level of manpower, it is easy to understand why French troops tended to stay within fortified strongpoints, leaving the countryside to the marauding guerillas.

Many at the time compared the Spanish revolt to the Revolt of the Vendée, a guerilla war waged by Royalist forces against the new Republican French government in the French department of Vendée.<sup>78</sup> The French, especially, liked this comparison, for in the Vendée, the rebels were put down brutally and effectively. However, the French general Hoche who was in charge of putting down the revolt had 100,000 troops with which to subdue a department of 6,720 square kilometers. The Peninsula, by contrast,

was 582,860 square kilometers and only ever had a maximum of 300,000 French troops.<sup>79</sup> Napoleon was expecting his generals to fight a protracted counter-insurgency, without giving them nearly enough men for the job.

Nor were Napoleon's problems limited to being tight-fisted with his troops. There were several doctrinal errors that contributed to the vulnerability of French forces. One of the worst was Napoleon's practice of rotating armies, and especially commanders, throughout the provinces. Just as a commander started to learn the ins and outs of a particular province, he would often be rotated out, and the new one forced to start all over again.<sup>80</sup> For example, in 1813 Napoleon assigned General Clausel, whose previous experience had mostly been on the conventional battlefields fighting Wellington, to counter-insurgent operations, passing over many officers with more counter-insurgency experience.<sup>81</sup> In fact, Napoleon's general strategy of dividing up the Peninsula into multiple semi-autonomous military districts was flawed. Unlike the French generals, the guerillas did not obey Napoleon's rigid delineations of provincial responsibility, allowing them to slip away whenever the pressure in a particular section got too intense.<sup>82</sup> The combination of guerilla disruption of communications and the egos of the generals in charge of the districts made coordination of operations nearly impossible, with the result that when the army in one province launched a sweep, the guerillas could simply move into a neighboring province.<sup>83</sup>

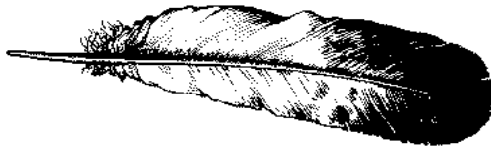
The final flaw in the French war plan was logistics. From getting troops to the front, to supplying them once they arrived, the French logistic system started to break down over the course of the war, taking the war effort with it. The first problem was with Napoleon's method of reinforcing his armies: battalions that needed to be reinforced would go back to the depots in France to pick up new recruits; they would then move into conquered areas to serve as garrisons for a time, before being reunited with their regiments.<sup>84</sup> This system worked well in Europe, where garrison duty was a good way for new recruits to acclimate themselves to the situation, but in the harsh guerilla warfare of Spain, it was a

death sentence. Regiments started to wither as their reinforcements were killed before they could even reach the front lines.<sup>85</sup> Even those troops that made it to the battlefield soon found themselves with nothing to eat. Central to Napoleon's strategy was his dictum that "War must feed war"; that his troops should be able to sustain themselves off whatever they could find in the land. However, as previously mentioned, the inhospitable nature of the Peninsula made it impossible for Napoleon's armies to support themselves by feeding off the land. In Catalonia by June of 1809, French forces had run so low on supplies they were forced to slaughter their horses, and the commanding general advised his soldiers to start planting vegetable gardens.<sup>86</sup> Nor were these desperate measures enacted in the face of a siege or sudden hardship—there just was not enough food. Soon these logistical failures were affecting battlefield performance. Part of the reason the Siege of Gerona lasted for seven months was because food shortages within the French lines caused sickness, and many of the army's horses (used for transportation and communications) starved to death.<sup>87</sup> If, as the saying has it, "amateurs study tactics, professionals study logistics," the French in the Peninsula were rank novices, for they failed at both.

## Conclusion

During the Peninsular War, the Spanish "nation in arms" fought a war that gave the world the term "guerilla," a multifaceted struggle in which the common Spaniard, with British help, managed to inflict defeat on the greatest conventional army in Europe. The guerillas harassed the French, attacked their communications, and, when forced to, fought to the death in the defense of their homes. They succeeded for a multitude of reasons, some of their own making, some that stemmed from the luck of circumstance, and some that were the result of French incompetence. These factors have historically been underestimated in English language scholarship, since the (mostly British) historians who have studied the war focused on the military exploits of the Duke of

Wellington, (the victor in the Battle of Waterloo), and the British regular armies, at the expense of neglecting the achievements of the guerillas. The study of this war, the first true guerilla war, is important for two reasons: firstly, it provides insight into a part of history that has been overshadowed and overlooked in most scholarship, and secondly, understanding how irregular insurgencies operate is as important for the modern-day observer as it was for Napoleon. The narrative of the guerillas in the Peninsular War can be applied, with relatively little modification to a range of conflicts since: a conventional power walked into a desolate country, a relative political and economic backwater, only to find itself embroiled in a never-ending war of counterinsurgency. It is a pattern that has been repeated time and time again throughout the 20th and now 21st centuries, and it started with the “Spanish Ulcer.”





- <sup>1</sup> David Gates, The Spanish Ulcer: A History of the Peninsular War (New York: W.W. Norton & Company, 1986) p. xii
- <sup>2</sup> *Ibid.*, p. 1
- <sup>3</sup> Charles Esdaile, The Peninsular War (New York: Penguin Putnam Inc., 2002) p. 23
- <sup>4</sup> Gates, p. 6
- <sup>5</sup> *Ibid.*, pp. 191-205
- <sup>6</sup> Charles Esdaile, Fighting Napoleon: Guerillas, Bandits, and Adventures in Spain, 1801-1814 (Great Britain: St. Edmundsbury Press, 2004) p. 18
- <sup>7</sup> Antonio Moliner Prada, La Guerra de La Independencia en España (Barcelona: NABLA Ediciones. 2007) p. 125
- <sup>8</sup> Esdaile, Fighting Napoleon, p. 29
- <sup>9</sup> *Ibid.*, p. 36
- <sup>10</sup> *Ibid.*, p. 36
- <sup>11</sup> J. Clayburn La Force, "The Supply of Muskets and Spain's War of Independence," The Business History Review 43, No. 4 (1969) p. 526
- <sup>12</sup> *Ibid.*, p. 526
- <sup>13</sup> *Ibid.*, p. 528
- <sup>14</sup> *Ibid.*, p. 539
- <sup>15</sup> *Ibid.*, p. 539
- <sup>16</sup> *Ibid.*, p. 127
- <sup>17</sup> Moliner Prada, p. 127
- <sup>18</sup> Gates, p. 210
- <sup>19</sup> *Ibid.*, p. 210
- <sup>20</sup> *Ibid.*, p. 317
- <sup>21</sup> Esdaile, Fighting Napoleon, pp. 48-49
- <sup>22</sup> *Ibid.*, pp. 27-28
- <sup>23</sup> *Ibid.*, p. 36
- <sup>24</sup> *Ibid.*, p. 36
- <sup>25</sup> Esdaile, Peninsular War, p. 419
- <sup>26</sup> Gates, pp. 155-157
- <sup>27</sup> *Ibid.*, p. 36
- <sup>28</sup> Don W. Alexander, "French Replacement Methods during the Peninsular War, 1808-1814," Military Affairs, 40, No. 4 (1980) p. 196
- <sup>29</sup> *Ibid.*, p. 195
- <sup>30</sup> *Ibid.*, p. 195
- <sup>31</sup> Esdaile, Fighting Napoleon, p. 1

<sup>32</sup> Don W. Alexander, "French Military Problems in Counterinsurgent Warfare in Northeastern Spain, 1808-1813," Military Affairs, 40, No. 3 (1976) p. 118

<sup>33</sup> *Ibid.*, p. 118

<sup>34</sup> Moliner Prada, p. 148

<sup>35</sup> *Ibid.*, p. 377

<sup>36</sup> Gates, p. 59

<sup>37</sup> *Ibid.*, pp. 145-146

<sup>38</sup> *Ibid.*, p. 175

<sup>39</sup> Esdaile, Peninsular War, p. 197

<sup>40</sup> Gates, p. 176

<sup>41</sup> Esdaile, Peninsular War, p. 209

<sup>42</sup> *Ibid.*, p. 209

<sup>43</sup> Esdaile, Fighting Napoleon, p. 64

<sup>44</sup> Esdaile, Peninsular War, p. 67

<sup>45</sup> Gates, p. 74

<sup>46</sup> Esdaile, Peninsular War, p. 68

<sup>47</sup> Gates, pp. 73-77

<sup>48</sup> *Ibid.*, pp. 73-77

<sup>49</sup> Diego Saglia, "'O My Mother Spain!': The Peninsular War, Family Matters, and the Practice of Romantic Nation-Writing," ELH 65, no. 2 (1998) p. 376

<sup>50</sup> Charles Richard Vaughan, "Narrative of the Siege of Zaragoza," LSE Selected Pamphlets (1809) p. 30

<sup>51</sup> Esdaile, Peninsular War, p. 85

<sup>52</sup> Gates, p. 124

<sup>53</sup> *Ibid.*, pp. 126-127

<sup>54</sup> Esdaile, Peninsular War, p. 162

<sup>55</sup> *Ibid.*, p. 163

<sup>56</sup> Gates, p. 127

<sup>57</sup> *Ibid.*, p. 128

<sup>58</sup> *Ibid.*, p. 165

<sup>59</sup> *Ibid.*, p. 165

<sup>60</sup> *Ibid.*, p. 167

<sup>61</sup> *Ibid.*, pp. 169-171

<sup>62</sup> *Ibid.*, p. 172

<sup>63</sup> Esdaile, Fighting Napoleon, p. 28

<sup>64</sup> *Ibid.*, p. 28

<sup>65</sup> Gates, p. 30

<sup>66</sup> *Ibid.*, p. 106

<sup>67</sup> Alexander, "French Military Problems," p. 118

<sup>68</sup> Gates, p. 29

<sup>69</sup> Edward J. Goodman, "Spanish Nationalism in the Struggle against Napoleon," The Review of Politics 20, no. 3 (1958) p. 333

<sup>70</sup> Esdaile, Fighting Napoleon, p. 35

<sup>71</sup> Goodman, p. 335

<sup>72</sup> Moliner Prada, p. 142

<sup>73</sup> Ibid., p. 130

<sup>74</sup> Ibid., pp. 130-131

<sup>75</sup> Vaughan, p. 29

<sup>76</sup> Alexander, "French Military Problems," p. 117

<sup>77</sup> Ibid., p. 120

<sup>78</sup> Ibid., p. 120

<sup>79</sup> Ibid., p. 118

<sup>80</sup> Ibid., p. 119

<sup>81</sup> Ibid., p. 119

<sup>82</sup> Ibid., p. 119

<sup>83</sup> Ibid., p. 117

<sup>84</sup> Alexander, "French Replacement Methods," p. 192

<sup>85</sup> Ibid., p. 195

<sup>86</sup> Josh Morgan, "War Feeding War?: The Impact of Logistics on the Napoleonic Occupation of Catalonia," The Journal of Military History 73, no. 1 (2009) p. 90

<sup>87</sup> Ibid., p. 94

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system over the course of the war. It is a very good resource for analyzing the logistical difficulties inherent in the conflict, and for showing how they were compounded by French incompetencies.

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Gates, David, The Spanish Ulcer: A History of the Peninsular War New York: W. W Norton & Company, 1986

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Goodman, Edward J., "Spanish Nationalism in the Struggle against Napoleon," The Review of Politics 20, no. 3 (1958) pp. 330-346

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Moliner Prada, Antonio, *La Guerra de La Independencia en España* Barcelona: NABLA Ediciones, 2007

An interesting Spanish take on the war, one that tends to give more credit to the guerillas than traditional English-language scholarship. The language is modern and easy to read for a non-native speaker. For the purposes of this essay the most helpful chapter was "*El Fenomeno Guerrillero*," "The guerilla phenomenon," which describes the guerilla war, and especially some of the popular songs and literature in support of the war.

Morgan, Josh, "War Feeding War?: The Impact of Logistics on the Napoleonic Occupation of Catalonia," The Journal of Military History 73, no. 1 (2009) pp. 83-116

This paper describes the logistical problems Napoleon's quartermasters ran into during the French occupation of Catalonia. It provides interesting insights into the French logistics and supply system, and how the guerillas were able to use the lack of food in the area to their advantage. It only discusses Catalonia, but many of the lessons learned there apply just as easily to the rest of the Peninsula.

Saglia, Diego, "'O My Mother Spain!': The Peninsular War, Family Matters, and the Practice of Romantic Nation-Writing," ELH 65, No. 2 (1998) pp. 363-393

A description of how the Spanish war found itself transmitted into literature, especially English literature. It provides an interesting account of the Peninsular War's effect on the culture of the time, as well as perceptions of the guerillas, both in Spain and in England.

Vaughan, Charles Richard, "Narrative of the Siege of Zaragoza," LSE Selected Pamphlets (1809) pp. 1-33

A primary-source document, this pamphlet was by an Englishman who was in Spain during the first Siege of Saragossa, and published his experiences. It provides a valuable first-hand account of the conduct of the war, as well as providing information on popular participation, and attitudes towards the guerillas.

John Toland, *Battle: The Story of the Bulge*  
New York: Random House, 1959, pp. 362-363

Patton's VIII, III, and XX Corps were also making strides toward the same goal from the west, southwest, and south. They were less than twenty-five miles away. The 17th Armored Division was taking part in the western attack on St. Vith. Early that morning four men who had been in the savage Flamierge fight were asked to go back and show a Graves Registration burying detail where the dead were; they now lay hidden under a thick blanket of snow.

Pfc. Kurt Gabel was one volunteer. By late morning the burying detail reached the end of the woods where the 513th Parachute Regiment had launched its attack of January 7.

"Move out, the same way you attacked," the four volunteers were told. "As you come across bodies, group them together. If you find Germans stack them separately."

The four 17th Airborne men began their slow sad journey across the white wasteland. Gabel, following his original trail, had no difficulty finding American bodies. He lined up five neatly. He tried to straighten out the sixth. But it was frozen in a foetal position.

At noon he opened up K-rations. As he ate a piece of cheese, he lay down next to the bodies to rest. Their cheeks were ruddy with mock health.

It seemed unfair to him to be lying there eating cheese while they stared at the brightly shining sun with eyes coated with ice. He should be lying there staring glassily too.

He looked again and again at them, until they seemed alive. He held out a piece of cheese to the nearest, catching himself as he was about to say, "Want a bite?"

As Gabel ate the cheese he noticed tears running down the dead man's cheeks. The ice covering the dead man's face was melting.

Gabel turned and examined the man frozen in the same position he'd entered the world. It was someone he knew—a man who had once cheated him out of a room at the Milestone Club in Kensington. They had almost had a fist fight.

Gabel looked around the field. The others on the grave detail were also eating their lunches as they lay in the snow. It was impossible to tell who was alive or who was dead. Gabel felt he could never get off the snow. He might as well be dead himself.

A whistle blew. The men slowly got up and went back to their dismal job. Trucks moved onto the field. The Graves Registration men began loading the frozen bodies. One grabbed the feet of a corpse, the other its shoulders. "One, two, three, heave!" shouted the first man. The body, as hard as a board, was flung onto the truck.

Gabel saw himself being picked up and flung onto the truck like a piece of cordwood.

One of the airborne volunteers walked toward the loaders. His face pale and full of hate, he said, "You do that once more and I'll b-blow your brains out."

The loaders said nothing. But they lifted the next body up tenderly, carefully placing it on the truck—as if it were a man.

“A PEOPLE ONCE NUMEROUS, POWERFUL AND  
TRULY INDEPENDENT”: JOHN MARSHALL  
AND THE CHEROKEE

Sarah Foster

In a brief, but gracious, letter sent February 4, 1801, John Marshall accepted his nomination as Chief Justice. “I pray you to accept my grateful acknowledgments for the honor conferred on me in appointing me Chief Justice of the United States,” he wrote to President John Adams, “I shall enter immediately on the duties of the office, and hope never to give you occasion to regret having made this appointment.”<sup>1</sup> It is hard to imagine that Adams ever did. John Marshall became one of the most influential figures in American history. During his time as Chief Justice, Marshall led the Supreme Court in defense of the Constitution and federal authority in landmark cases such as *Marbury v. Madison* and *McCulloch v. Maryland*. Many of these cases involved conflict between state and federal authority; however, in *Cherokee Nation v. State of Georgia* and *Worcester v. State of Georgia*, a quarrel arose among three conflicting governments—the United States, the State of Georgia, and the Cherokee Nation. Defining the position of the Cherokee

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people in national politics was a delicate issue: not only did the fragile fate of the Indians rest on this definition, but the Supreme Court's decision also could have significant implications for state and national authority. In his *Cherokee Nation* and *Worcester* decisions, issued in 1831 and 1832 respectively, Marshall was able, through careful interpretation of the Constitution and Indian treaties, to protect Cherokee sovereignty while preserving the power of the federal government over both Georgia and the Cherokee.

Prior to the Cherokee Cases, relations between Indians and white settlers had been degenerating rapidly. Cherokee residing in the northwest corner of Georgia had previously adopted a settled farming lifestyle in response to the example and assimilative efforts of the white settlers. However, rather than dissolving the separation between colonists and Indians, this actually led to conflict. Now economically tied to their property, by the 1820s the Cherokee refused to continue the practice of relinquishing their land bit by bit to the settlers. Furthermore they wrote themselves a constitution and "declared themselves an independent nation with an absolute right to soil and sovereignty within their boundaries."<sup>2</sup> This declaration frustrated Georgia's settlers who were eager to gain the fertile Cherokee farmland. However, the matter was much more complex than simple land-lust; gold had been recently discovered in Cherokee territory. To further complicate matters, Georgia was eager to expand its own white, slave-supported population base, and to increase the representation of slave states in Congress.<sup>3</sup> As the desire of Georgia's settlers for Cherokee land grew, confrontation became inevitable.

Conflict finally erupted when Georgia passed a series of laws intended to force the Cherokee off their land. The first of these laws, passed in 1829, placed Cherokee land under the jurisdiction of Georgia's counties. Other provisions of the law established a punishment for trying to prevent Indian emigration (to encourage removal), and excluded Indians from witnessing in courts. The law went so far as to declare that "all laws, ordinances, orders, and regulations, of any kind whatever, made, passed, or enacted, by the Cherokee Indians...are hereby declared to be, null and void,

and of no effect, as if the same had never existed.”<sup>4</sup> A second act followed quickly in 1830. Its self-proclaimed purpose was:

To prevent the exercise of assumed and arbitrary power by all persons, under pretext of authority from the Cherokee Indians and their laws, and to prevent white persons from residing within that part of the chartered limits of Georgia, occupied by the Cherokee Indians, and to provide a guard for the protection of the gold mines, and to enforce the laws of the state within the aforesaid territory.<sup>5</sup>

The clause against white persons was actually directed at missionaries, who because they were generally sympathetic to the Cherokee and more supportive of Indian rights, were seen as a threat to Georgia’s goals.<sup>6</sup> The ultimate purpose of these laws was to coerce the Indians out of Georgia and into land west of the Mississippi that President Andrew Jackson had allotted for them.

Georgia’s laws outraged the Cherokee. They appealed to Congress, and to the American public at large, protesting this as a violation of their rights.<sup>7</sup> Historian Robert Remini quotes from their appeal, “Shall we be compelled by a civilized and Christian people, with whom we have lived in peace for the last 40 years, and for whom we have willingly bled in war, to bid a final adieu to our homes, our farms, our streams and our beautiful forests?”<sup>8</sup> In response to the Cherokee, Congress reiterated the position that Jackson had sustained all along; the state of Georgia had jurisdiction over all territory within its limits.<sup>9</sup> Though there were some (mostly National Republicans who opposed Jackson) who were sympathetic to the Cherokee, this faction was neither powerful enough in Congress nor in the public to stir up effective support for the Cherokee. The Cherokees’ lawyer also wrote directly to Governor George Gilmer of Georgia requesting a peaceful judicial settlement, but received only a sarcastic retort.<sup>10</sup> The situation heated up further with the execution of George Tassel, a Cherokee convicted of murder on Cherokee lands, in the face of a writ of error<sup>11</sup> from the Supreme Court.<sup>12</sup> Rejected from all sides, the Cherokee decided to chance a direct appeal to the Supreme Court.

To make their case, the Cherokee hired two famous lawyers: William Wirt and John Sergeant. Wirt, a well-known lawyer

from his time as Attorney General under Presidents James Monroe and John Quincy Adams, developed the primary strategy for the Cherokee.<sup>13</sup> The first problem Wirt encountered was how to present a case for which the Supreme Court would acknowledge jurisdiction. In order to fulfill the requirements for Supreme Court cases laid out in Article III of the Constitution, Wirt had to cast the Cherokee Nation as either a state or a foreign nation.<sup>14</sup> Wirt chose to classify the Cherokee as a foreign nation bringing a suit against a state. The main problem with this course was that the Court might take issue with recognizing the Cherokee as a foreign state. If it did so, there was a danger that the appeal could be dismissed on the grounds that the Court had no jurisdiction.<sup>15</sup> Wirt asked several prominent lawyers for their opinions on whether the Court would hear the case. He even requested that a friend ask Marshall for his unofficial opinion of the Cherokee situation. In his response, although Marshall did not say outright what his ruling would be should a case appear, he did express sympathies toward the Cherokee, as well as his understanding of the desperation of the situation. Historian Joseph Burke quotes from Marshall's letter: "Humanity must bewail the course which is pursued, whatever may be the decision of policy."<sup>16</sup> Reassured by his colleagues and by Marshall, in 1831, Wirt brought *Cherokee Nation v. the State of Georgia* before the Supreme Court.

In *Cherokee Nation*, Wirt defended the Cherokees' status as a sovereign, independent, and foreign nation. The complaint was brought on behalf of "the Cherokee nation of Indians, a foreign state, not owing allegiance to the United States, nor to any state of this union, nor to any prince, potentate or state, other than their own."<sup>17</sup> Wirt's reasoning came from treaties made between the Cherokee and the United States, which he said treated the Indians as a foreign nation. The brief asserted that the Cherokee had never surrendered their status as a foreign nation through any of the treaties they had made, either with the colonists under British rule, or with the United States Government. Wirt also made use of the commerce clause of the Constitution, by which Congress is granted sole power "To regulate Commerce with foreign Nations, and among the several States, and with the

Indian Tribes.”<sup>18</sup> This clause was “exclusive;” Wirt stated, “and consequently forbids all interference by any one of the states.”<sup>19</sup> Furthermore, the brief stated that the actions of Congress which gave the United States power over trade with the Indians did not limit Cherokee sovereignty, rather “the objects of these acts are to consecrate the Indian boundary as arranged by the treaties; and they contain clear recognitions of the sovereignty of the Indians, and of their exclusive right to give and to execute the law within that boundary.”<sup>20</sup> In this manner, Wirt provided an argument that the Cherokee constituted a foreign state.

Having established the status of the Cherokee, Wirt turned to his ultimate purpose—to protect the Cherokee against Georgia’s laws. Wirt declared that the laws were “in violation of these treaties, of the Constitution of the United States, and of the Act of Congress of 1802.”<sup>21</sup> The Georgia laws were unconstitutional, Wirt said, and must be voided. Furthermore, Wirt attempted to show that removal was not a viable option for the Cherokee. He defended the Cherokee against the federal removal policy, saying of the Indian Removal Act of 1830<sup>22</sup> that “if accepted...it [The Indian Removal Act] will be the grave not only of their [the Cherokee] civilization and Christianity, but of the nation itself.”<sup>23</sup> Wirt’s main purpose in condemning removal was to assert that not only did the Cherokee have a right to their land, but that the continued existence of their people depended on it. Wirt thus declared the laws of Georgia in violation of both Cherokee sovereignty and the Constitution, and amplified his case with the argument that the Cherokee could not move to escape the laws without the practical eradication of their society.

In Marshall’s *Cherokee Nation* opinion, a clear effort was made to express his sympathies for the plight of the Cherokee; nevertheless, he held that the Court did not have jurisdiction over the case. In the much-quoted opening to his opinion, Marshall’s compassion for the Cherokee is clear:

If courts were permitted to indulge their sympathies, a case better calculated to excite them can scarcely be imagined. A people once numerous, powerful, and truly independent, found by our ancestors in the quiet and uncontrolled possession of an ample domain,

gradually sinking beneath our superior policy, our arts and our arms, have yielded their lands by successive treaties, each of which contains a solemn guarantee of the residue, until they retain no more of their formerly extensive territory than is deemed necessary to their comfortable subsistence. To preserve this remnant, the present application is made.<sup>24</sup>

Marshall recognized the Cherokee as a distinct people; however, he was reluctant to allow them to be termed a foreign nation for two main reasons: first, in his view, they were dependants of the United States. Secondly, he believed that the founding fathers did not think of the Cherokee as foreign when they wrote the Constitution. He therefore allotted them the famous classification of “domestic, dependant nations.”<sup>25</sup> Despite his personal feelings on the matter, Marshall refused to risk serious political ramifications and compromise his own nationalism by recognizing the Cherokee as a foreign state. He therefore dismissed the *Cherokee Nation* case. Some may see Marshall’s dismissal of the case as inaction, or reluctance to become involved in a debate that could jeopardize the authority of the Court;<sup>26</sup> however, there were sound political reasons for Marshall’s decision. Presented with a showdown between Cherokee and federal authority, it can hardly be surprising that Marshall chose to defend the federal government: to allow the Cherokee to be beyond the control of the United States would not only reduce the power of the federal government, but would also quite probably result in continued or even escalated conflict between the Cherokee and Georgia’s white population. However, Marshall’s political savvy and devotion to the Constitution by no means eclipsed his sympathy. Marshall did not abandon the Cherokee; in fact, he took the time to write an extended opinion when a short dismissal would have been sufficient to close the case. At least theoretically, Marshall defends the Cherokee against the State of Georgia by refusing to declare them subject to Georgia’s laws. Although he diminishes their status in relation to the federal government, the Cherokee are still granted some form of nationhood; a classification which excludes them from Georgia’s jurisdiction. Thus the argument that Marshall’s actions were dismissive of the Cherokee has little merit. Although he did

not uphold the extreme position of complete Cherokee autonomy, Marshall's appellation of the Cherokee as a 'domestic dependant nation' allowed them definitively more freedom than simply placing them under the absolute jurisdiction of the United States. In *Cherokee Nation*, Marshall successfully navigated a labyrinth of complicating factors. Burke writes that, "Considering the pressures under which he wrote, Marshall delivered an ingenious opinion. He chose a third alternative, [to declaring either absolute federal authority or absolute Cherokee autonomy] which was suited to the peculiar relations between the United States and the Indian tribes."<sup>27</sup> Marshall's appellation of the Cherokee as a 'domestic dependant nation' protected them from Georgia, at least in theory, by taking them out of the jurisdiction of the state government, while keeping them under federal control.

Although Marshall's main reason for defending the Cherokee was clearly a belief in the immorality of Georgia's actions, another motive could have been his loathing for unchecked state power. "Marshall was dismayed by the small-government philosophy of the Jacksonian politicians," Newmyer writes. "Marshall's distrust of state legislative government began in the 1780s, and it became more intense with the emergence of formal constitutional theories to justify state power and a political party to implement it."<sup>28</sup> *Cherokee Nation*, consistent with Marshall's other famous legal opinions, reduced the power of the States while strengthening the federal government.

Marshall based his *Cherokee Nation* ruling on federal Indian treaties and the commerce clause of the Constitution. By careful interpretation of these documents, Marshall established a status that protected threatened federal authority, while retaining the possibility of helping the Cherokee in the future. Marshall's first interpretive statement in *Cherokee Nation* sounds rather encouraging to the Cherokee:

The numerous treaties made with them [the Cherokee Nation] by the United States recognize them as a people capable of maintaining the relations of peace and war, of being responsible in their political character for any violation of their engagements, or for any aggression committed on the citizens of the United States by any individual

of their community. Laws have been enacted in the spirit of these treaties. The acts of our government plainly recognize the Cherokee nation as a state, and the courts are bound by those acts.<sup>29</sup>

Marshall continues to use those same treaties, however, to assert that the Cherokee cannot be considered a foreign state. He reasons that the Cherokee have expressed their dependence on the United States; thus they cannot properly be termed foreign. Also, although the Cherokee have a full claim to their land, it is not considered theirs by any nation other than the United States.<sup>30</sup> It would be inconceivable, for example, were France to buy land contained within Georgia's limits from the Cherokee. In contrast to Wirt, who cites the commerce clause and other documents pertaining to trade relations as "clear recognitions of the sovereignty of the Indians," Marshall argues that the commerce clause of the Constitution places the Cherokee in a unique political sphere.<sup>31</sup> He writes "The objects, to which the power of regulating commerce might be directed, are divided into three distinct classes—foreign nations, the several states, and Indian tribes. When forming this article, the [Constitutional] convention considered them as entirely distinct."<sup>32</sup> Marshall continues his interpretation to define that separate sphere as one which protects the Cherokee from the State of Georgia. The Cherokee are not a foreign nation. However, this is "not we presume because a tribe may not be a nation, but because it is not foreign to the United States."<sup>33</sup> The classification of the Cherokee as a 'domestic dependant nation' therefore places them out of reach of state power, but still under some federal control. This ruling reflects the combination, and possibly the conflict, of Marshall's nationalism and his desire to aid the Cherokee.

*Cherokee Nation* had accomplished half of Marshall's objective—it established a precedent for the classification of Indian tribes that protected them from state laws without eclipsing their right to some form of autonomy. However, because no decision was ultimately handed down, the case was unable to do anything that would effectively protect the Cherokee. The government of Georgia, which had even refused to send a delegation to the Supreme Court, was highly unlikely to repeal their laws because

Marshall had called the Cherokee a ‘domestic dependant nation.’ Marshall realized this and in *Cherokee Nation*, he tried very hard to encourage a second case which would allow him to protect the Cherokee. Marshall stated that he was unable to intervene, “at least in the form in which those matters are presented.”<sup>34</sup> This statement intimates that, if presented with a case in which the Supreme Court had legitimate jurisdiction, a ruling would be possible. To further emphasize the point, Marshall’s next paragraph states that the question of Cherokee land rights, “might perhaps be decided by this Court in a proper case with proper parties.”<sup>35</sup> Through these statements, Marshall clearly encourages a second case in which he could aid the beleaguered Cherokee.

The text of Marshall’s *Cherokee Nation* ruling appeared so pro-Cherokee, Remini writes, that “when the Cherokees read Marshall’s decision they honestly believed that the Nation had won the case.”<sup>36</sup> When enlightened, however, the Cherokee met the ruling with bitter disappointment. They resorted to a private meeting with President Jackson, which also proved futile. Jackson asserted that although the Cherokee could stay in Georgia if they so desired, he could not interfere with the state’s laws.<sup>37</sup> As the Cherokee pondered their next move, Marshall continued to be openly sympathetic, to the point of becoming “a silent party in the dissent.”<sup>38</sup> After the *Cherokee Nation* decision had been handed down, Marshall sent a letter to the Cherokee that expressed his sympathies. He also encouraged the dissenting justices to print their opinions, which had not been read in the original case. Furthermore, he supported the publication produced by the court reporter, which emphasized the pro-Cherokee aspects of the case.<sup>39</sup> Marshall’s sympathetic attitude demonstrated to the Cherokee that the support of the Supreme Court was still within reach.

The situation in Georgia continued to escalate, culminating in the arrest of several missionaries found in violation of Georgia’s laws that prohibited whites from residing in Cherokee land without a permit.<sup>40</sup> At their trial, the missionaries were offered a pardon, which was accepted by all but two—Samuel Worcester and Elizur



Butler.<sup>41</sup> On March 5, 1831, Wirt and Sergeant made an appeal to the Supreme Court on behalf of the imprisoned missionaries requesting that the state be stopped. This appeal provided Marshall with the long-awaited chance to judge the Cherokee situation in a case where he had undisputed jurisdiction. Worcester and Butler could file an appeal as U.S. citizens against a state—one of the situations the Constitution explicitly recognizes to be the domain of the Supreme Court. Furthermore, this case did not involve questions of the federal government’s power, but rather pitted Georgia against the Cherokee Nation. *Worcester v. Georgia* provided the ideal opportunity for Marshall to make a decision that supported the Cherokee without hurting the federal government.

Similar to that of *Cherokee Nation*, the claim in *Worcester* was based on the idea that federal treaties had recognized and preserved Cherokee sovereignty. Wirt’s argument states that because of this sovereignty “the defendant [Worcester and Butler] is not amenable to the laws of Georgia, nor to the jurisdiction of the courts of the said state.”<sup>42</sup> Although a similar declaration of sovereignty was the basis for rejecting the *Cherokee Nation* case, in *Worcester* Marshall was not required to uphold this idea in order to decide the case. Marshall could therefore focus on Georgia’s actions and not worry about limiting the federal government. Marshall fully agreed with the majority of the claims contained in Wirt’s argument. First, he gave an extensive description of how the treaties made with the Cherokee had never eclipsed their sovereignty, but rather placed them under the protection of the United States. Marshall made very clear that this relationship was not meant to disadvantage the Cherokee. Referring to the federal relation with the Indians he wrote that “protection does not imply the destruction of the protected.”<sup>43</sup> Marshall went on to support the complaint’s interpretation of the Georgia laws, labeling them as “repugnant to the Constitution, laws, and treaties of the United States” and “in hostility with” treaties and acts of Congress.<sup>44</sup> In *Cherokee Nation*, Marshall had been bound by a duty to the Union. Although Marshall’s own sympathies clearly lay with the Cherokee, he was above all else an American and a nationalist, unwilling to

compromise federal power. In *Worcester*, however, circumstances permitted Marshall to help the Cherokee, and he did, with much more than simply a positive ruling. In *Worcester*, Marshall established an invaluable precedent for a compassionate interpretation of federal Indian law.

Marshall's exhaustive opinion in *Worcester* dissects federal Indian relations, beginning with the first colonization under European monarchs. He begins with a reminder that settlers did not gain power over the Indians simply by the act of colonization: "the extravagant and absurd idea, that the feeble settlements made on the sea coast, or the companies under whom they were made, acquired legitimate power by them to govern the people [Indians], or occupy the lands from sea to sea, did not enter the mind of any man."<sup>45</sup> Citing colonial laws and charters, Marshall provides evidence that the Europeans considered the Indians competent nations outside of colonial control. This argument is strikingly similar to Wirt's *Cherokee Nation* argument, as it seems to intimate that the Cherokee are a sovereign nation. However, Marshall resolves this seeming contradiction by claiming that the Cherokee surrendered the right to absolute sovereignty when they accepted that they were dependant on another power. In the creation of treaties with the colonists, "...so long as their [the Indians] actual independence was untouched, and their right to self-government acknowledged, they were willing to profess dependence on the power which furnished supplies of which they were in absolute need, and restrained dangerous intruders from entering their country."<sup>46</sup> The Indians did not understand the treaties to have abolished their sovereignty or to have made them subjects of the crown; however, a mutually accepted dependence altered their status from foreign nations to Marshall's 'domestic dependant nations'. Following the Revolutionary War, the same relationship that the British had with the Indians was transferred to Congress. In this ingenious manner, Marshall reaffirms his *Cherokee Nation* ruling, while keeping the idea of Indian sovereignty intact.

After using the general nature of federal Indian treaties to justify his classification of the Indian Nations, Marshall's *Worcester*

opinion went on to treat the specifics of two especially controversial and relevant treaties. His approach to the treaties is unique among interpretations of Indian treaties because he uses the purpose, or intention, of the document to deduce its meaning. Historian Philip Frickey describes this method of interpretation: “In the purposive model of statutory interpretation, a court attributes benevolent purposes to a legislature, because our system assumes that legislators seek to promote the public interest. The court then construes ambiguities in the statute to promote these purposes.”<sup>47</sup> Thus in *Worcester*, Marshall interpreted the treaties according to the historically questionable assumption that they were written with the Indians’ best interests in mind. He even emphasizes the necessity of interpreting treaties, written in a language that was not the Indians’ first language, in the manner in which they were understood by the Cherokee.<sup>48</sup> Marshall applies this ‘purposive’ logic to two treaties in particular: the Treaty of Hopewell of 1785, and the Treaty of Holston of 1791.

Marshall chose to discuss these treaties because of Justice Johnson’s concurring opinion in *Cherokee Nation*. Johnson had agreed with Marshall’s dismissal of the case, not on the technicalities of jurisdiction but because he believed the Cherokee had no right whatsoever to sovereignty. In his opinion, Johnson cited the Treaty of Hopewell, claiming that it constituted a surrender of sovereignty.<sup>49</sup> Anticipating that these arguments could be used against his *Worcester* decision, Marshall formulated a convincing rebuttal. In the third article of the Treaty of Hopewell, the Cherokee are said to be under the exclusive protection of the United States. Marshall argued that this protective relationship, as understood from historical precedent, did not abolish Cherokee sovereignty. He once again referred to British-Indian relations—the British would often trade solely with an Indian war ally in return for protecting that tribe. This interaction “bound the nation to the British crown, as a dependent ally, claiming the protection of a powerful friend and neighbor, and receiving the advantages of that protection, without involving a surrender of their national character.”<sup>50</sup>

The yet-more-problematic fourth article of the Treaty of Hopewell could easily be interpreted as abolishing Indian property rights. The treaty refers to Cherokee Territory as, “the boundary allotted to the Cherokees for their hunting grounds, between the said Indians and the citizens of the United States, within the limits of the United States of America.”<sup>51</sup> According to one possible interpretation, the United States Government was in full possession and control of Indian Lands. Frickey writes that the language of the treaty “strongly suggests that the Cherokee had granted all their land and whatever sovereign power they possessed to the federal government, which had then ‘allotted to’ the Cherokee the use of certain of those now-public lands for hunting.”<sup>52</sup> Marshall worked his way around this clause in three ways. First, he argued that the Cherokee, as non-native English speakers, did not interpret the nuances of the treaty’s language to have abolished their land rights. Second, Marshall said that, although the treaty specifically mentions land allotted for hunting grounds, hunting was so central to the Indian’s lives, this phrase does not actually restrict the extent of the land at all. Lastly, he once again cited British precedent, saying that similar language was often used in their treaties without having the effect of limiting Cherokee sovereignty. Marshall’s logic is clearly ‘purposive’, as he assumed that the government had concern for Indian customs when they wrote the treaty.

The ninth article of the Treaty of Hopewell presented an especially difficult problem for Marshall. It states that “For the benefit and comfort of the Indians, and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States in Congress assembled shall have the sole and exclusive right of regulating trade with the Indians, and managing all their affairs in such manner as they think proper.”<sup>53</sup> Opponents of Indian autonomy claimed that by giving the government the power of “managing all their affairs,” Hopewell placed the Indians under federal control. Marshall claimed that “managing all their affairs” could only refer to trade. Any other interpretation “would be inconsistent with the spirit of this and of all subsequent treaties... It would convert a treaty of peace covertly into an act

annihilating the political existence of one of the parties. Had such a result been intended, it would have been openly avowed.”<sup>54</sup> This presents another example of purposive logic; Marshall assumed that the federal government would not purposefully dupe the Indians. Therefore, Marshall reasoned, because Cherokee sovereignty was not clearly abolished, it must still exist, especially because the Cherokee did not consider their rights to have been abolished by the treaty. Especially in this treaty, which avows that it is for “the benefit and comfort of the Indians,” Marshall was able to apply a benevolent interpretation.<sup>55</sup> Ultimately, Marshall concluded that the Treaty of Hopewell could not be understood to limit or destroy Cherokee sovereignty.

The Treaty of Holston was also used by some people as a basis for rejecting the idea of Indian sovereignty. The treaty places the Indians under the protection of the United States alone, to which Marshall responded: “This relation was that of a nation claiming and receiving the protection of one more powerful: not that of individuals abandoning their national character, and submitting as subjects to the laws of a master.”<sup>56</sup> Marshall gave his opinion on another problematic clause, which gave the United States government the right to regulate trade, in the same manner as in article nine of the Treaty of Hopewell. After mentioning some other, more easily dismissed, clauses, Marshall ultimately converts the Treaty of Holston to a strength, rather than a weakness, of his argument. He writes, “This treaty, thus explicitly recognizing the national character of the Cherokees, and their right of self government; thus guaranteeing their lands; assuming the duty of protection, and of course pledging the faith of the United States for that protection; has been frequently renewed, and is now in full force.”<sup>57</sup> Therefore Marshall used a purposive interpretation of federal Indian treaties to preempt what likely would have been a key component of the opposition’s argument against his *Worcester* opinion.

Backed by his interpretations of the Constitution and of the treaties, Marshall agreed with the complainant: the Cherokee were clearly outside the jurisdiction of the state of Georgia, and

the recently established state laws against the Cherokee were repugnant to the United States Constitution and to federal treaties, and were therefore null and void.

In *Worcester*, Marshall was able to address the Indian rights issues, which, in the earlier *Cherokee Nation* case, had been eclipsed by the federal-state power struggle. In this case, Burke writes, Marshall “risked the prestige of the Court by declaring all of the recent Georgia Indian laws unconstitutional and ordering the missionaries released...He wrote in 1832 the opinion that he could not write in 1831.”<sup>58</sup> (The ‘risk’ in this case was that the prestige of the Court would be hurt by issuing an unenforceable decree.) *Worcester*, therefore, provided Marshall the opportunity to attempt what he could not do in the earlier case: that is, to protect the Cherokee Nation.

Marshall’s extensive argument for limited Cherokee sovereignty in *Worcester* may seem unnecessary to attain the actual object of the case, which was freedom for the missionaries. It probably was unnecessary. Though Marshall needed to establish that the Cherokee were outside of state control, he could have done so with a much simpler argument. Therefore Marshall’s extensive and meticulous defense of his *Worcester* ruling indicates that his real object was not simply to attain freedom for the missionaries. Indeed the plight of the missionaries was simply a means to an end. Marshall grasped this opportunity to establish a broad definition of Cherokee sovereignty, and to set a precedent for a more benevolent interpretation of federal Indian treaties. What sets the *Worcester* case apart from *Cherokee Nation* is that he was able to accomplish this without reducing the federal government’s power. Indeed, by establishing the federal government as the only body that can treat with the Indians, he even increased federal power in relation to the states by making the states more dependent on the national government for the management of their internal affairs. The *Worcester* ruling at first glance may seem to be inconsistent with that of *Cherokee Nation*; however, Marshall’s goals were very different in these two cases. In *Cherokee Nation*, Marshall, intent on defending the federal government, stressed the dependant nature

of the Cherokee. In *Worcester*, Marshall upheld this principle of national supremacy, but because he was defending the Cherokee from state authority, emphasized their rights and freedoms.

Unfortunately, the Court's ruling had only symbolic effect. Although there is no proof that Jackson ever uttered the much-quoted phrase "John Marshall has made his decision—now let him enforce it," his actions implied this very attitude. Jackson believed that if the Cherokee chose to remain in Georgia, he could not protect them from the state. It is unclear whether his unwillingness to cross Georgia was entirely motivated by states-rights idealism. There were two critical political reasons why he could not anger Georgia. The first is that he needed their support in the coming 1832 presidential election. The second involves a crisis which was stewing throughout the Cherokee debate, and eventually burst forth to eclipse it entirely—the Nullification Crisis.<sup>59</sup> Jackson was fully aware that making himself an enemy of Georgia, especially in a manner that seemed to violate the state's rights, would make Georgia an automatic ally of South Carolina.<sup>60</sup> Jackson has often been criticized as a heartless opponent of Indian rights. However, contrary to this belief, Jackson was not immune to the sufferings of the Cherokee. "Humanity has often wept over the fate of the aborigines in this country" he said in his Second Annual Message to Congress.<sup>61</sup> Despite acknowledging the Cherokee's plight, he justifies removal policy with a Manifest Destiny perspective:

What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms, embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion?<sup>62</sup>

It was Jackson's firmly-held belief that removal was the best policy—it was presumed to be humane and beneficial to the Indians, and would open up large amounts of land east of the Mississippi for white settlers.<sup>63</sup> Unfortunately, the Supreme Court mandate was powerless without enforcement from Jackson or Congress, and so Marshall's ruling had no ultimate effect on the fate of the Cherokee.<sup>64</sup>

The Cherokee were eventually removed, not humanely and voluntarily, as Jackson had hoped,<sup>65</sup> but on the brutal and bloody “Trail of Tears.” Paradoxically, despite the fact that it was not just or moral, Cherokee removal may have actually saved the Cherokee Nation. Remini ends his book with this statement:

To his dying day...Andrew Jackson genuinely believed that what he had accomplished rescued these people from inevitable annihilation. And although that statement sounds monstrous, and although no one in the modern world wishes to accept or believe it, that is exactly what he did. He saved the five Civilized Nations from probable extinction.<sup>66</sup>

The *Cherokee Nation* and *Worcester* cases presented a dilemma in which the state, federal, and Cherokee Nation governments were embroiled in a power struggle. Marshall used these two cases to define Cherokee sovereignty, placing their power between that of the state and federal governments. The intention of this hierarchy was to protect the Cherokee from Georgia by placing them outside of state control, but still retain them within federal control. Marshall accomplished this in several steps. First, he refused in *Cherokee Nation* to recognize the Cherokee as a foreign nation. At the same time, however, he asserted that they are indeed a nation. In *Worcester*, Marshall further developed the idea of the Cherokee’s nationhood by interpreting federal treaties so that they did not limit the Indian right to self-government. Striking a balance between a desire to strengthen the federal government and his sympathy for the Cherokee, Marshall ultimately voided Georgia’s laws.

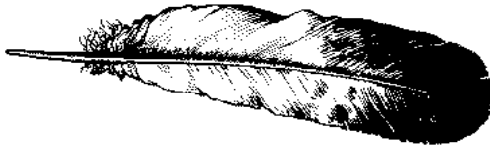
Many have tried, and none has succeeded, to end the many problems that plague American Indians. However distasteful it may seem to us, the early colonists conquered the Cherokee. Our present views and morality are entirely incompatible with the ideals under which colonization took place. Just like the idea of slavery causes us to shudder, so does the idea of our ancestors founding a land of liberty by sweeping away populations of free, independent people. Marshall admits this in *Worcester*, yet resigns himself to the fact that it has occurred:

America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of



each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered, which annulled the pre-existing rights of its ancient possessors.<sup>67</sup>

Marshall recognized the Gordian knot that was presented to him—it is impossible to reach a satisfactory settlement between two people who consider themselves sovereign nations, when by the very nature of that settlement one must be subordinate to the other. However, Marshall faced that challenge and responded in the only way in which one could hope to respond, balancing his fierce loyalty to the United States and his political ideals with compassion and morality.



## End Notes

<sup>1</sup> John Marshall, Letter to John Adams (4 February 1801) The Works of John Adams, by John Adams, Vol. 9, (Boston: Little, Brown, and Co.), 1856, Online Library of Liberty Liberty Fund, 11 March 2009, <[http://oll.libertyfund.org/?option=com\\_staticxt&staticfile=show.php%3Ftitle=2107&chapter=161142&layout=html&Itemid=27](http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=2107&chapter=161142&layout=html&Itemid=27)>

<sup>2</sup> Joseph C. Burke, “The Cherokee Cases: A Study in Law, Politics, and Morality,” Stanford Law Review 21.3 (1969) pp. 500-531, JSTOR 22 December 2008, <<http://www.jstor.org/search>> p. 503

<sup>3</sup> R. Kent Newmyer, John Marshall and the Heroic Age of the Supreme Court Southern Biography Series (Baton Rouge: Louisiana State University Press, 2001) p. 442

<sup>4</sup> Worcester v. State of Georgia, No. 31, U.S. 515 (Supreme Court of the United States, 1832) Findlaw 29 December 2008, <<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=31&invol=515>>

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

<sup>6</sup> John Ehle, Trail of Tears: The Rise and Fall of the Cherokee Nation (New York: Anchor, 1988) p. 244

<sup>7</sup> Burke, pp. 506-508

<sup>8</sup> Robert Remini, Andrew Jackson and his Indian Wars (New York: Penguin, 2001) p. 255

<sup>9</sup> Burke, p. 506

<sup>10</sup> *Ibid.*, p. 508

<sup>11</sup> A writ of error is a formal order sent out by an appellate court requesting that a lower level court hand over the record of the case to be reviewed for errors.

<sup>12</sup> *Ibid.*, p. 512

<sup>13</sup> Daniel Walker Howe, What Hath God Wrought; The Transformation of America, 1815-1848 ed. David M. Kennedy, The Oxford History of the United States 2 (Oxford: Oxford University Press, 2007) pp. 354-355; and Newmyer pp. 446-447

<sup>14</sup> According to Article III of the United States Constitution, the power of the Supreme Court extends “—to all cases affecting ambassadors, other public ministers and consuls; —to all cases of admiralty and maritime jurisdiction; —to controversies to which the United States shall be a party; —to controversies between two or more states; —between a state and citizens of another state; —between citizens of different states; —between citizens of the same state claiming lands

under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects” (Article III, Section II)

<sup>15</sup> Burke, p. 510

<sup>16</sup> Ibid., p. 510

<sup>17</sup> Cherokee Nation v. State of Georgia, No. 30, U.S. 1 (Supreme Court of the United States, 1831) Legal Information Institute Cornell University Law School, 9 March 2009, <[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0030\\_0001\\_ZS.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0030_0001_ZS.html)>

<sup>18</sup> Constitution of the United States of America, Article 1, Section 8

<sup>19</sup> Cherokee Nation v. State of Georgia

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

As quoted in Cherokee Nation, the purpose of the Act of 1802 was, “to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers” (Cherokee Nation v. Georgia). Wirt claimed that this act helped to establish boundaries for the Cherokee Nation and, as undertaken in the spirit of the commerce clause, was enacted with respect for Cherokee sovereignty.

<sup>22</sup> The Indian Removal Act of 1830 allowed President Jackson to give the Indians land west of the Mississippi in exchange for their current holdings, said that the US would compensate the Indians for any losses, and allowed Jackson to appropriate \$500,000 for these purposes. (Remini, p. 237)

<sup>23</sup> Cherokee Nation v. State of Georgia

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Marshall may have realized that a court mandate directed at Georgia would be difficult to enforce. If the mandate were not followed, it would reduce the credibility of the Court by making it appear that Supreme Court decisions were meaningless and unenforceable; however, this possibility did not prevent Marshall from later accepting the Worcester v. Georgia case, and issuing a ruling, which, as Burke points out, “risked the prestige of the Court.” (Burke, p. 523)

<sup>27</sup> Burke, p. 514

<sup>28</sup> Newmyer, p. 319

<sup>29</sup> Cherokee Nation v. State of Georgia

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Remini, p. 255

<sup>37</sup> Ehle, p. 243

<sup>38</sup> Burke, p. 518

Marshall's opinion was, after all, much closer to the dissenting opinions of Justices Thompson and Story, than it was to that of Baldwin and Johnson, who concurred that the case should be dismissed. Citing the validity of treaties which acknowledged the Cherokee's nationhood, Thompson and Story argued that the Court had jurisdiction to hear the case. On the contrary, in a passage very contradictory to Marshall's sympathetic outlook, concurring Justice Johnson asks, "Must every petty kraal of Indians, designating themselves a tribe or nation, and having a few hundred acres of land to hunt on exclusively, be recognized as a state?" (Cherokee Nation)

<sup>39</sup> Burke, pp. 516-518; and Ehle, p. 243

<sup>40</sup> Cherokee Nation vs. State of Georgia

<sup>41</sup> Burke, pp. 519-520

<sup>42</sup> Worcester vs. State of Georgia

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Philip P. Frickey, "Marshalling Past and Present: Colonialism, Constitutionalism, and Interpretation in Federal Indian Law," Harvard Law Review 107.2 (1993) pp. 381-440, JSTOR, 22 December 2008, <<http://www.jstor.org/search>> p. 400

<sup>48</sup> Worcester v. State of Georgia

<sup>49</sup> Cherokee Nation v. State of Georgia

<sup>50</sup> Worcester v. State of Georgia

<sup>51</sup> Treaty of Hopewell (1785) Cherokee Phoenix 22 March 2009, <<http://www.cherokeephoenix.org/News/News.aspx?StoryID=2887>>

<sup>52</sup> Frickey, p. 400

<sup>53</sup> Treaty of Hopewell

<sup>54</sup> Worcester v. State of Georgia

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Burke, p. 523

<sup>59</sup> This crisis was such a threat to the union that even the hostility between Jackson and Marshall was put on hold as the political rivals worked frantically to save the union. Burke quotes Justice Story, a great admirer of Marshall, as saying, “since his [President Jackson’s] last proclamation and message, the Chief Justice and myself have become his warmest supporters.” (Burke, p. 530) Both Wirt and Worcester told the Cherokee to not appeal again—they too were distracted by nullification. (Burke, p. 530) Also, though it is doubtful that this was on anyone’s minds during the national crisis of nullification, had South Carolina succeeded in asserting states’ rights to the extent of nullification, the chances of Georgia relinquishing control over Cherokee land would have been virtually nil.

<sup>60</sup> Richard P. Longaker, “Andrew Jackson and the Judiciary,” Political Science Quarterly 71.3 (1956) pp. 341-364, JSTOR, 29 December 2008, <<http://www.jstor.org/search>> p. 348

<sup>61</sup> Andrew Jackson, “Second Annual Message,” Washington, DC (6 December 1930), The eJournal Website 22 March 2009, <<http://www.synaptic.bc.ca/ejournal/JacksonSecondAnnualMessage.htm>>

<sup>62</sup> Ibid.

<sup>63</sup> F. P. Prucha, “Andrew Jackson’s Indian Policy: A Reassessment,” Journal of American History 56.3, pp. 527-539, JSTOR, 29 December 2008, <<http://www.jstor.org/search>> p. 534

<sup>64</sup> There was congressional opposition to removal, mostly from anti-Jacksonian Republicans in Congress. They even established a committee which attempted to secure repeal of the Removal Act. However, this faction was not powerful enough to influence Jackson’s decision.

Ronald N. Satz, American Indian Policy in the Jacksonian Era Illustrated ed. (University of Oklahoma Press, 2002) Google Books 11 March 2009, <<http://books.google.com/books?id=x85rIvny-48C&printsec=frontcover>> pp. 20-22

<sup>65</sup> Jackson’s initial vision for Cherokee removal is dissimilar from how things ultimately occurred. In his Second Annual Address to Congress, Jackson claims that removal, “will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way and under their own rude

institutions; will retard the progress of decay, which is lessening their numbers; and perhaps cause them gradually, under the protection of the Government and through the influence of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community.” (Second Annual Message)

<sup>66</sup> Remini, p. 281

<sup>67</sup> Worcester v. State of Georgia

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THE ESTABLISHMENT CLAUSE OF  
THE FIRST AMENDMENT:  
BREACHING THE WALL OF SEPARATION  
BETWEEN CHURCH AND STATE

Julie M. Reiter

In late January 2001, only days after assuming the Presidency of the United States, former President George W. Bush launched a Faith-Based and Community Initiative program that was designed to enable faith-based (i.e., religious) and other community organizations to help Americans in need and to participate in the nation's social service network. The program authorized religious social service organizations to compete with secular groups for taxpayer-provided federal funding and, since its creation, has awarded substantial federal funds to faith-based organizations.<sup>1</sup> Upon assuming office in January 2009, President Barack Obama pledged to overhaul but to continue the program.<sup>2</sup> The Faith-Based and Community Initiative program implicates one of the key provisions of the U.S. Constitution—namely, the Establishment Clause of the First Amendment which provides that “Congress shall make no law respecting an establishment of religion....” These 10 words were the product of extensive discussions among the Framers of the U.S. Constitution and the Bill of

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Rights. The language of the Clause is terse and somewhat vague and, as such, requires examination of the contemporaneous writings of the Founders and the related historical context in order to interpret and understand the purpose of the Clause. Unlike the words of the Clause, the writings of the Founders provide clear evidence that they intended to provide for separation of Church and State because, among other reasons, they desired to prevent religious tyranny. The Establishment Clause received modest attention between its adoption near the end of the 18th century and the mid-20th century, but since that time the Clause has been the subject of a substantial number of U.S. Supreme Court cases. The Supreme Court has, however, often failed to deliver decisions that are consistent with a separationist approach to the Establishment Clause, or that even provide for a coherent interpretation of the Clause. Instead, the Supreme Court has contributed to a gradual erosion of the Founders' vision regarding the Establishment Clause, and the manner in which the Clause should be applied to prevent intermingling of government and religion. The Framers of the Establishment Clause intended to provide for separation of Church and State and, in so doing, to prevent religious tyranny. However, due to the language of the Clause, this intention has been gradually undercut over the past half century by U.S. Supreme Court decisions and government actions.

The Founders developed their concept of the appropriate relationship between government and religion in light of the history of Church-State relations in England and the American colonies, with particular attention toward preventing religious tyranny. For centuries in England, close ties between Christianity and government had led to abuses of both religious and government power. For example, after the Pope rejected his request to annul his first marriage, King Henry VIII responded with the Act of Supremacy, passed by Parliament in 1534, which designated the King as the head of the Church of England. The next 200 years, as the established religion of England fluctuated between different sects depending on the monarch's faith, represented one of the most unstable periods in English history and was character-

ized by violence, persecution and civil war.<sup>3</sup> When Queen Mary, a Catholic, assumed the throne in 1553, she was known as “Bloody Mary” because of her unending persecution of Protestants, which included the burning of the Archbishop of Canterbury at the stake in 1556.<sup>4</sup> Under King Charles I, civil war broke out in 1642 between supporters of the Anglican king and the Puritans, led by Oliver Cromwell, who executed Charles I in 1649.<sup>5</sup> Such upheaval continued through the reigns of Charles II and James II and was resolved with the Glorious Revolution of 1688 when William and Mary were appointed as monarchs by Parliament. Clearly, the interrelation between Church and State in England provided an example to the Founders of the detrimental effects of religious tyranny.

Many of the early English settlers who arrived in the “New World” in the 17th century were fleeing religious persecution or seeking religious freedom. Despite the settlers’ own experience with persecution, most of the original colonial governments designated an established religion, demonstrating that Church-State separation was not widely practiced.<sup>7</sup> As Thomas Jefferson wrote in his *Notes on the State of Virginia*:

The first settlers in this country [Virginia] were emigrants from England, of the English church, just at a point of time when it was flushed with complete victory over the religious of all other persuasions. Possessed, as they became, of the powers of making, administering, and executing the laws, they shewed equal intolerance in this country with their Presbyterian brethren, who had emigrated to the northern government. The poor Quakers were flying from persecution in England. They cast their eyes on these new countries as asylums of civil and religious freedom; but they found them free only for the reigning sect.<sup>8</sup>

In the years leading up to the American Revolution, only four of the colonies had no official religion or church: Rhode Island, Delaware, New Jersey, and Pennsylvania. Six of the colonies—Virginia, Maryland, Georgia, North Carolina and South Carolina, and New York—had charters establishing the Anglican Church as the official church. In three colonies—Massachusetts, Connecticut, and New Hampshire—the colonial governments were essentially

theocracies, run by the leaders of the Congregational Church. Although the Puritans had come to Massachusetts for religious freedom, they were not inclined to offer religious freedom to others. However, early on, some dissenters began to grasp the necessity of separation of Church and State. For example, Roger Williams protested that “God had not given divine sanction” to the Puritans in Massachusetts, and, in his view, “the civil authorities of Massachusetts had no authority to involve themselves in matters of religion.”<sup>9</sup> Upon banishment in 1635 from Massachusetts, Williams founded Rhode Island, which became the first colony that had no established church and that offered broad religious liberty.<sup>10</sup> The founding of Rhode Island marked a revolutionary change in ideology from a belief in religious dominance over government to the possibility of complete separation of Church and State

Religious intolerance and persecution still existed in the colonies during this period, but the commitment to eliminating church power in government was becoming a major cause. For example, in 1774, Reverend Isaac Backus, a Baptist leader in Massachusetts, protested the imprisonment of 18 Baptists for refusing to pay taxes to support a local Congregational minister. Backus expressed to the governor his opinion that the government had no authority to create laws concerning religion. Baptists in Virginia were also persecuted at this time, fined and imprisoned for their religious views, and found guilty of criminal behavior.<sup>11</sup> In a letter to his friend William Bradford in 1774, James Madison of Virginia expressed outrage concerning the persecution of the Baptists: “That diabolical Hell-conceived principle of persecution rages among some and to their eternal Infamy the Clergy can furnish their Quota of Imps for such business. This vexes me the most of any thing whatever.”<sup>12</sup>

The evolution from colonial attitudes toward religion to post-revolutionary attitudes was dramatic: from acceptance of Church domination to the concept of religious liberty coupled with the mandated separation of Church and State. The American Revolution—and past experience with, and history of, religious intolerance—sparked a desire for religious disestablishment in

numerous states.<sup>13</sup> The radical concept of a democracy, where the people were sovereign, upset the historic model of government in which Church and State were aligned and empowered each other. However, in the new democracy, power rested in the hands of people of diverse religions or people who did not practice organized religion, making it both practical and necessary to eliminate the concept of an established religion. As the fervor for religious freedom grew, many of the new state constitutions both provided for disestablishment of religion and recognized the right of the individual to neither support nor observe any religion at all. For example, New Jersey's Constitution of 1776 provided that no one should "ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any other church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right..."<sup>14</sup> Similarly, Pennsylvania's Constitution of 1776 stated, "no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent."<sup>15</sup>

In their determination to free the new nation from religious tyranny, the Founders' writings make it clear that they were committed to preventing the intermingling of government and religious power. James Madison, who is now widely known as the "Father of the Constitution," made an impassioned argument against "A Bill establishing a provision for Teachers of the Christian Religion" in his *Memorial and Remonstrance Against Religious Assessments* in 1785. This bill proposed to use taxpayer money in Virginia to support Christian teachers. Madison's protest against the bill developed into a broader argument against any religious establishment. He wrote, "During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy...superstition, bigotry, and persecution." Madison argued that Christianity did not require the government's support, nor did the government need the assistance of organized religion:

What influence in fact have ecclesiastical establishments had on Civil Society?...they have been seen to erect a spiritual tyranny on

the ruins of the Civil authority...they have been seen upholding the thrones of political tyranny: in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established Clergy convenient auxiliaries. A just Government instituted to secure & perpetuate it needs them not.<sup>16</sup>

Madison's revolutionary *Memorial* both mirrored and influenced the people's belief that religion should be personal—more than 100 memorials and petitions, endorsed by more than 11,000 Virginians, flooded the legislature in 1785, and nine out of 10 of them argued against establishment of religion.<sup>17</sup>

Perhaps the most significant step towards formalizing the separation of Church and State was *The Virginia Act For Establishing Religious Freedom*. Enacted in 1786, this document was principally drafted by Thomas Jefferson, who authored the Declaration of Independence and became the third President of the United States. The Act maintained that separation of Church and State was essential. Jefferson felt so strongly about separation of Church and State that he later viewed this Act to be one of the three most significant achievements of his life, and it was noted on the inscription on his tombstone.<sup>18</sup> The Act declared that “no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever,” and thus disestablished the Anglican Church in Virginia.<sup>19</sup> Jefferson joined with George Mason, another noted Founder, in writing *Virginia's Statute for Religious Freedom*, which asserted that to compel a person to support a religion not his own was tyrannical and “that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty” of choosing where to give his money.<sup>20</sup> This 1786 statute provided support for the separation of religion and government within the framework of protecting religious liberty.

The philosophical source for the revolutionary concept of disestablishment and religious freedom that emerged in the period prior to the adoption of the Establishment Clause was, in large measure, the writings of Enlightenment philosophers, particularly John Locke. In *A Letter Concerning Toleration*, written

in 1689, Locke asserted that the government has only a “conditional grant of power” and must abide by the social contract, in which sovereignty is transferred to the people.<sup>21</sup> The government’s responsibility, Locke argued, is to protect the natural rights of the people, such as the right to life, liberty, and property, and to protect the people’s well-being. Locke also believed in equality, because all men possess natural rights, and religious toleration was critical in order to protect the natural right of religion (although, ironically, Locke did not oppose intolerance towards Catholics and atheists).<sup>22</sup> In addition, Locke wrote that man’s connection to God is “above the reach and extent of politics and government.”<sup>23</sup>

Despite the Founders’ belief in the need for separation of Church and State in order to prevent religious tyranny, as influenced by Enlightenment philosophers, the wording of the Establishment Clause of the First Amendment did not clearly set forth these intentions. The Establishment Clause does not include the phrase “separation of Church and State,” nor does it refer to a “wall of separation,” although these phrases are much more well-known than the actual wording of the Clause: “Congress shall make no law respecting an establishment of religion....” The terse wording and arguably unclear meaning of the Establishment Clause must be assessed and understood within the historic context of 1789. Many of the Framers, including Madison, who completed the drafting of the Constitution, did not initially subscribe to George Mason’s view that a Bill of Rights was necessary. This does not mean that the Founders were indifferent to protecting individual rights, including religious freedom. Instead, these men believed that the federal government under the Constitution had no power to create laws that interfered with individual rights.<sup>24</sup> In *The Federalist*, Alexander Hamilton raised the question, “For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?”<sup>25</sup> Hamilton’s logic is key in identifying the powers that the Founders envisioned for the Congress and how such powers would relate to rights and matters over which the federal government had no authority. Reacting to a claim that the rights of the conscience

were not protected, James Wilson of Pennsylvania said, “[W]hat part of this system puts in the power of Congress to attack those rights? When there is no power to attack, it is idle to prepare the means of defense.”<sup>26</sup> Virginia’s Edmund Randolph asserted that “no power is given expressly to Congress over religion” and that only “constitutionally given” powers could be exercised.<sup>27</sup> Likewise, Madison said, “There is no shadow of right in the general government to intermeddle with religion. Its least interference with it, would be a most flagrant usurpation.”<sup>28</sup> Richard Dobbs Spaight of North Carolina declared, “As to the subject of religion...[n]o power is given to the general government to interfere with it at all. Any act of Congress on this subject would be a usurpation.”<sup>29</sup> James Iredell of North Carolina contended that Congress had no power to create “the establishment of any religion whatsoever...”<sup>30</sup> Iredell went on to state: “Is there any power given to the Congress in matters of religion?...If any future Congress should pass an act concerning the religion of the country, it would be an act which they are not authorized to pass, by the Constitution, and which the people would not obey.”<sup>31</sup> Clearly, there was broad consensus opposing any intermingling of religion and government—the comments by Wilson, Randolph, Spaight, Iredell, and Madison reveal their belief that, even without the First Amendment, Congress had no power to create laws promoting one religion or church above others, or all of them impartially and equally.<sup>32</sup>

Those Founders who did not argue for the creation of the Bill of Rights were perhaps too idealistic—they appear to have theorized like philosophers rather than realizing that they were creating a country whose leaders in the future might not be so idealistic, but corrupt instead. Safeguards, such as the First Amendment, would secure the rights of the people. Some delegates, such as Roger Sherman of Connecticut, stressed that most states already possessed a Bill of Rights to protect the rights of the people: “The State Declarations of Rights are not repealed by the Constitution; and being in force are sufficient.”<sup>33</sup> However, the states’ Bills of Rights would not protect American citizens against offenses committed by the federal government.<sup>34</sup> These Founders who considered a Bill of Rights to be superfluous were not

anticipating the challenges to the Establishment Clause, or the many ways in which the Church and State would intersect in the future. Some, however, like Thomas Tredwell of New York, were quite prescient in stating their fears about intermingling politics and religion:

I could have wished also that sufficient caution had been used to secure us our religious liberties, and to have prevented the general government from tyrannizing over our consciences by a religious establishment—a tyranny of all others most dreadful, and which will assuredly be exercised whenever it shall be thought for the promotion and support of their political measures.<sup>35</sup>

Although not specifically referring to or advocating the creation of the Bill of Rights, Jefferson made a similar argument in *Notes on the State of Virginia* in 1781:

But is the spirit of the people an infallible, a permanent reliance? Is it government?...Besides, the spirit of the times may alter, will alter. Our rulers will become corrupt, our people careless. A single zealot may commence persecutor, and better men be his victims. It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest...From the conclusion of this war, we shall be going downhill.<sup>36</sup>

Yet again, the words of Thomas Jefferson anticipated the possibility of future threats to liberty.

Convinced that inclusion of a Bill of Rights was needed to ratify the Constitution, the House of Representatives created a Committee of the Whole, which met in July and August of 1789 to draft what would become the First Amendment. During the proceedings, there was a consensus about the need for absolute separation of government and religion and the discussions were primarily about the style of the wording.<sup>37</sup> Elbridge Gerry of Massachusetts stated his belief that the Amendment would read most effectively if it said, “no religious doctrine shall be established by law.”<sup>38</sup> Madison said “that he apprehended the amending of the words to be that Congress should not establish a religion and enforce the legal observation of it by law, nor compel men to worship in any manner contrary to their consciences.”<sup>39</sup> Madison proposed that “a national religion” be added, but this concept was



struck down.<sup>40</sup> Samuel Livermore of New Hampshire wanted the Amendment to read: “Congress should make no laws touching religion, or infringing the rights of the conscience.”<sup>41</sup> In the end, the wording that was accepted by the House was “Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience.”<sup>42</sup> The Senate deleted “to infringe the rights of conscience” and accepted the current wording: “Congress shall make no law respecting establishment of religion, or prohibiting the free exercise thereof.”<sup>43</sup> The Senate debate was purely about style—it excluded “to infringe the rights of conscience” in order to eliminate redundancy.<sup>44</sup> Historian Thomas J. Curry concludes that the Congressional debate, “...represented not a clash between parties arguing for a ‘broad’ or ‘narrow’ interpretation or between those who wished to give the federal government more or less power in religious matters. It represented...the common agreement that the new government had no authority whatsoever in religious matters.”<sup>45</sup>

On September 3, 1789, three motions were defeated that would have added to the First Amendment a ban on preferring one religion or church above others. These motions would have created a narrower interpretation of the Establishment Clause; however, the broader, though more ambiguous, vision prevailed. The first motion that failed included language that, “Congress shall make no law establishing one religious sect or society in preference to others....”<sup>46</sup> The second defeated motion read, “Congress shall not make any law infringing the rights of conscience, or establishing any religious sect or society.”<sup>47</sup> The final defeated motion stated, “Congress shall make no law establishing any particular denomination of religion in preference to another....”<sup>48</sup> According to historian Thomas J. Curry, the acceptance of the final House form of the First Amendment by the Senate demonstrated that Congress desired something broader than a simple prohibition of a preference of one religion or sect over all others—arguably, that the Congress intended that no religion in general be established.<sup>49</sup>

In the end, nine of the 11 states that ratified the First Amendment “adhered to the viewpoint that support of religion

and churches should be voluntary, that any government financial assistance to religion constituted an establishment of religion and violated its free exercise.”<sup>50</sup> Some states had maintained this ideology from their colonial beginnings, while others, including New York, Delaware, Maryland, Virginia, and South Carolina—all formerly with Anglican-established churches—came to this conclusion after the Revolution.<sup>51</sup> While all of these states seem to have taken the wording of the Clause to mean complete separation, when read out of its historical context, the Clause does not explicitly demonstrate these intentions. The citizens of States ratifying the First Amendment “saw government attempts to organize and regulate such support [of religion] as a usurpation of power, as a violation of liberty of conscience and free exercise...and as falling within the scope of what they termed establishment of religion.”<sup>52</sup>

Although many of the Founders fought, on philosophical grounds, against a narrow formulation of the Establishment Clause, the actual wording of the Clause does not convey how strongly they desired complete separation of Church and State. Jefferson, who was absent from the proceedings that resulted in the Establishment Clause, later described the Clause as providing a “wall of separation” in his famous 1802 *Letter to the Danbury Baptists*, written more than a decade after the First Amendment was enacted.<sup>53</sup> The letter clearly confirms Jefferson’s vision of absolute separation between Church and State. Jefferson’s separation principle prohibits all relations between government and religion, bars the States’ endorsement of or aid to any religion, and also encourages the idea that religion is personal. Jefferson viewed the wording of the Establishment Clause as reflecting his intentions:

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church & State.<sup>54</sup>

Jefferson's *Danbury Baptists* letter, while written after the adoption of the Clause, is frequently cited as evidence of the type of barrier that the Framers intended to erect between government and religion. Professor Daniel L. Dreisbach of American University has noted that the concise wording of the First Amendment does not imply a wall of separation: "The First Amendment's laconic text imposes explicit restrictions on Congress only. A wall, by contrast, is a bilateral barrier, a structure of unambiguous demarcation that inhibits the movement of traffic from one side to the other."<sup>55</sup> Dreisbach does not suggest that Jefferson, by using the concept of a wall of separation, was misreading the First Amendment; instead, Dreisbach emphasizes that Jefferson's "wall of separation" describes exactly the philosophy of the Founders, even though the actual wording of the First Amendment is so brief that it does not clearly lay out these intentions. Finally, there is no question that Madison and Jefferson were aligned in their absolute support of separation of religion and government: "[Madison's] 'Remonstrance' ..., together with Madison's insistence that Jefferson's *Statute* should guide the Constitution's Framers on all matters relating to church-state separation, should leave no doubt regarding Madison's clear intentions with respect to the separation of church and state."<sup>56</sup>

The Framers of the First Amendment possessed a unified commitment to the revolutionary concept of the separation between government, on the one hand, and religion and religious institutions, on the other. The Establishment Clause may not have clearly articulated a dividing line between the secular and religious realms of the new American political and social system. Even so, the writings of the Founders and the various state statutes that they helped frame, when taken together with the historical context of the era, provide convincing evidence of their view regarding the absolute separation between Church and State. In spite of the terse and enigmatic words of the Establishment Clause, the historical evidence and writings provide meaningful insight as to the manner in which the Clause was to be interpreted and applied.

It is somewhat surprising that, given the robust discussions surrounding the drafting and ratification of the Establishment

Clause, the Clause did not garner any significant attention during the ensuing century and one-half. The U.S. Supreme Court decided only a small number of Establishment Clause cases prior to the mid-20th century. Although the Supreme Court has, since then, frequently overturned government actions and programs that supported, or were intertwined with, religious or sectarian institutions based upon the Establishment Clause, the absolutist position of the Founders has been weakened by disparate and, at times, contradictory interpretations of the Clause by the Supreme Court over the past half-century. The recent trend in Supreme Court cases has been, to a degree, to permit more manifestations of religion in government-related activities. Thus, the lines between Church and State have become more blurred in the last 50 or so years, contrary to the intentions of the Founders.

*Everson v. Board of Education* in 1947 represented the first significant application of the Establishment Clause to the states since the adoption of the 14th Amendment in 1868, which generally applied the Bill of Rights to all U.S. states. The *Everson* case centered upon a New Jersey statute that authorized local school boards to reimburse parents for the cost of transporting their children to schools, including parochial Catholic schools. A taxpayer in one school district challenged this program as constituting a violation of the Establishment Clause. In the majority opinion, Justice Hugo Black cited Jefferson's separation concept in the *Danbury Baptist* letter as the guiding spirit behind the Establishment Clause: "In the words of Jefferson, the clause against establishment of religion by law was intended to erect a 'wall of separation between Church and State.'...That wall must be kept high and impregnable. We could not approve the slightest breach."<sup>58</sup> Nevertheless, in a 5-4 split, the Court proceeded to conclude that it was permissible to reimburse the parents for transportation costs to Catholic schools.<sup>59</sup> The majority concluded that the reimbursement program "does not support [the Catholic schools]" and that it "does no more than provide a general program to help parents get their children, regardless of their religion, safely... to and from accredited schools."<sup>60</sup> Justice Rutledge best expressed the dissenting views, warning that the logic of the majority opinion would lead to a weakening of the

Establishment Clause. Justice Rutledge referred to the majority's ruling as a "corrosive decision" that engendered a "breach" in the wall of separation between Church and State: "Neither so high nor so impregnable today as yesterday is the wall raised between Church and State by Virginia's great *Statute of Religious Freedom* and the First Amendment, now made applicable to all the states by the Fourteenth."<sup>61</sup> Justice Rutledge predicted—correctly—that, as a result of this case, future opportunities would be created for interrelation between Church and State. In other words, Justice Rutledge anticipated that future interpretations of the Establishment Clause would move from the Founders' absolutist intentions regarding the Clause. What is particularly striking about the *Everson* case is that the majority opinion clearly acknowledged the intentions of the Founders, but chose not to uphold them.

Between 1947 and 1971, the leading Supreme Court cases often, though not consistently, upheld the spirit of the Establishment Clause and limited governmental support for an interrelationship with religious institutions.<sup>62</sup> In 1971, the Supreme Court heard *Lemon v. Kurtzman*, which involved challenges to statutes in Rhode Island and Pennsylvania that authorized financial support to teachers, textbooks, and materials used in the teaching of "secular subjects" in religious schools.<sup>63</sup> The Supreme Court ruled, in an 8-0 decision, that both statutes involved "excessive entanglement between government and religion" and, consequently, were in violation of the Establishment Clause.<sup>64</sup> In his opinion, Chief Justice Burger enunciated a new three-part test for evaluating the constitutionality of governmental statutes and programs under the Establishment Clause. Under this test, to be considered constitutional, a governmental statute or action relating to religion: (1) must have "a secular legislative purpose"; (2) must have principal effects that neither advance nor inhibit religion; and (3) must not foster "an excessive government entanglement with religion."<sup>65</sup> Although *Lemon* did overturn the state statutes that authorized state aid to parochial schools, the three-part test, which became the basis of judicial review for subsequent years, sometimes undermined the Establishment Clause itself. The test, while appearing to be in the spirit of the Establishment Clause and

providing an objective standard, in actuality has often allowed for intermingling between Church and State, contrary to the absolutist views of the Founders.

An important case that applied the *Lemon* test is *Lynch v. Donnelly*, decided in 1984, in which the Court appeared to give more weight to the test than to the actual intentions of the Establishment Clause.<sup>66</sup> *Lynch* concerned a Christmas display, including a nativity scene, that had been erected in a public park in Pawtucket, Rhode Island, for more than 40 years. Several residents of the city objected to the nativity scene, claiming that it violated the Establishment Clause and thus was unconstitutional. The split 5-4 decision held that the city had not violated the Establishment Clause because the display depicted the historical origins of the holiday and had “legitimate secular purposes.” Chief Justice Burger, writing on behalf of the majority, stated that “[w]e are a religious people whose institutions presuppose a Supreme Being,” and referenced the national motto “In God We Trust,” the “one nation under God” in the pledge of allegiance, and the recognition of Thanksgiving and Christmas as national holidays.<sup>67</sup> The majority opinion then determined that there was no evidence of excessive entanglement between government and religion or that the display advanced or inhibited the Christian faith. The four dissenting justices strongly disagreed. Justice Brennan, in a dissenting opinion, noted that “the crèche retains a specifically Christian religious meaning” and went on to speak more generally about the Establishment Clause:

The city’s action should be recognized for what it is: a coercive, though perhaps small, step toward establishing the sectarian preferences of the majority at the expense of the minority...That the Constitution sets this realm of [religion] apart from the pressures and antagonisms of government is one of its supreme achievements. Regrettably, the Court today tarnishes that achievement.<sup>68</sup>

The dissenting opinions argued that the majority’s decision made light of other Supreme Court precedents and clearly violated the Establishment Clause itself. Put another way, the *Lynch* decision, in applying the *Lemon* test, may be seen as an example of chipping away at the pure intentions of the Establishment Clause.

Supreme Court decisions regarding Establishment Clause cases became increasingly contradictory over the next two decades.<sup>69</sup> Some cases overturned laws or government actions that intersected with religion, while others reached an opposite conclusion. Two Supreme Court cases, *McCreary County v. ACLU* and *Van Orden v. Perry*, both decided on the same day in 2005, illustrate inconsistencies in the Court's decisions in Establishment Clause cases. Both of these cases considered whether displays of the Ten Commandments on public property violated the Establishment Clause. *McCreary County* concerned displays in public schools and courthouses, while *Van Orden* involved such a display on the grounds of the Texas state capitol building. A 5-4 split decision in *McCreary* found the displays in violation of the Clause because the purpose was to advance religion. The Court held that a person upon seeing these displays might conclude that government was endorsing religion.<sup>70</sup> Justice Souter's majority opinion stated: "The reasonable observer could only think that the [government] meant to emphasize and celebrate the Commandments' religious message."<sup>71</sup> By contrast, *Van Orden v. Perry* upheld the display of the Ten Commandments on the grounds of the state capitol building in Austin, Texas, as being consistent with the Establishment Clause.<sup>72</sup> In that case, the Court decided that there was no violation of the Clause, which is clearly contrary to the decision announced on the same day in *McCreary County v. ACLU*. Justice Rehnquist's majority opinion conceded that the Ten Commandments are "religious... and were so viewed at their inception and so remain..."; however, he concluded that "...simply having religious content or promoting a message consistent with a religious doctrine does not run afoul of the Establishment Clause."<sup>73</sup> These two cases dramatically illustrate how the Court reached contradictory conclusions that have allowed holes to be poked in the wall of separation between Church and State.

The gradual encroachment on, or breaching of, the Establishment Clause fostered by the Court, has opened the door to recent religion-linked government programs—most notably, President Bush's Faith-Based and Community Initiative (FBCI) program that involved a Church-State entanglement that is hard

to reconcile with the intentions of the Founders. President Bush's FBCI program created, in 2001, a White House office and centers in 11 Federal agencies to support local faith-based (i.e., religious) organizations that combat poverty, disease, and other social ills. The program also was intended to eliminate barriers that impeded faith-based organizations from obtaining federal grants and to ensure that such organizations could compete for government funds on an equal footing with purely secular organizations. By the end of 2007, the FBCI program had made grants funded through taxpayer money to more than 5,000 faith-based groups.<sup>74</sup>

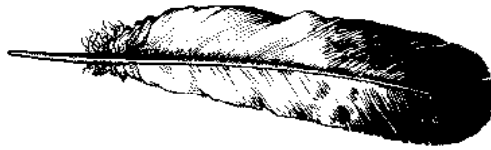
Shortly after the FBCI program was launched, the program was challenged precisely on Establishment Clause grounds by a foundation opposed to government involvement with religion. In *Hein, et al. v. Freedom from Religion Foundation, Inc.*, the Supreme Court, in a 5-4 split decision in 2007, dodged the challenge to the FBCI program, and instead decided that the plaintiffs did not have the right to challenge an executive branch program that was not created by Congress.<sup>75</sup> This ruling was contrary to the 1968 decision in *Flast v. Cohen* that concluded that taxpayers do possess the right to challenge statutes that violate the First Amendment.<sup>76</sup> In *Flast v. Cohen*, the majority had written: "Our history vividly illustrates that one of the specific evils feared by those who drafted the establishment clause...was that the taxing and spending power would be used to favor one religion over another or to support religion in general."<sup>77</sup> Justice Samuel Alito wrote the majority opinion in *Hein*, and thus arguably allowed, along with other members of the Supreme Court, a major encroachment on the Establishment Clause. In fact, Alito previously had admitted, during his Senate Judiciary Committee confirmation hearing, that: "It's [the Establishment Clause] a very important principle. But I, myself, do not have a grand unified theory."<sup>78</sup> Alito also had pointed out in those hearings the inconsistencies in deciding Establishment Clause cases, but was seemingly resistant to a broad and absolute interpretation of the Establishment Clause: "I don't think the court has settled on any single theory that it applies in every case. There are cases in which it finds the *Lemon* theory, the *Lemon* test...It tends to apply that in cases involving funding. There



is the endorsement test, and it applies that in certain cases.”<sup>79</sup> The *Hein* decision, written by Justice Alito, allowed the FBCI program to continue, even though it represents an obvious intermingling of Church and State and seems contrary to the purpose of the Establishment Clause and the Founders’ intentions.

The Founders at the start of the American Revolution saw in the distance a revolutionary concept: a nation of people who possessed fundamental and inalienable rights, and whose government has the primary obligation of protecting those rights above all else. While this radical vision may have seemed unattainable in 18th century America, the Founders possessed the audacity not only to dream of such a nation, but to set out to accomplish such a goal. Central to the Founders’ vision was the right of religious freedom, and their vow to protect the new nation from religious tyranny. While the final wording of the Establishment Clause is terse and enigmatic, an examination of the Founders’ writings and the congressional proceedings of 1789 provides insight into the principles behind the Establishment Clause. The evidence confirms that the Founders’ intention in addressing “establishment” was not limited to the literal “disestablishment” of a national religion, nor of prohibiting preference of one religion over another. The Founders sought not only to protect religion from the state, but also to protect the state from the influence of religion. As Madison wrote in an undated *A Detached Memorandum*: “Strongly guarded as is the separation between Religion and Gov’t in the Constitution of the United States, the danger of encroachment by Ecclesiastical Bodies may be illustrated by precedents already furnished in their short history.”<sup>80</sup> While the Bill of Rights was written to restrict the power of government, the interpretation of those restrictions has fallen to the Supreme Court. Ideally, judicial review by the Court of Establishment Clause cases should reflect the intentions of the Founders as to the meaning of the Clause. However, the Court has, at times, lost sight of the concept of “excessive entanglements” and ignored the “dangers of encroachment” about which the Founders were so concerned. The Founders no doubt would be surprised and distressed about the increasing trend towards integration—not separation—of religion and government, as exemplified by the

Faith-Based and Community Initiative, which President Obama has undertaken to continue during his administration. Recent Supreme Court interpretations of one of the most fundamental Clauses in the Bill of Rights could undermine the rights of the people and democracy as a whole, arguably bringing to life the Founders' fear of breaching the wall of separation between Church and State.



<sup>1</sup> The White House, "The President's Faith-Based and Community Initiative in 50 States: A Report to the Nation's Governors," The White House, [www.whitehouse.gov/government/fbci/president-initiative.html](http://www.whitehouse.gov/government/fbci/president-initiative.html) (accessed November 10, 2008)

<sup>2</sup> Office of the Press Secretary, "Obama Announces White House Office of Faith-based and Neighborhood Partnerships," The White House, [http://www.whitehouse.gov/the\\_press\\_office/ObamaAnnouncesWhiteHouseOfficeofFaith-basedandNeighborhoodPartnerships/](http://www.whitehouse.gov/the_press_office/ObamaAnnouncesWhiteHouseOfficeofFaith-basedandNeighborhoodPartnerships/) (accessed February 19, 2009)

<sup>3</sup> Dale Appleby, "A Brief History of the Anglican Church," All Saints Resources, <http://www.allsaintsjakarta.org/anghist.htm#5> (accessed February 19, 2009)

<sup>4</sup> Ibid.

<sup>5</sup> The World Book Encyclopedia 1991 ed., s.v. "Charles I"

<sup>6</sup> Ibid., "England"

<sup>7</sup> "Religion in the Colonies," ProCon.org, <http://undergod.procon.org/viewresource.asp?resourceID=69> (accessed February 19, 2009)

<sup>8</sup> Forrest Church, ed., The Separation of Church and State: Writings on a Fundamental Freedom by America's Founders (Boston, Massachusetts: Beacon Press, 2004) p. 48

<sup>9</sup> Procon.org

<sup>10</sup> Ibid.

<sup>11</sup> Leonard W. Levy, The Establishment Clause: Religion and the First Amendment (New York: Macmillan Publishing Company, 1986) pp. 1-2

<sup>12</sup> James Madison, "James Madison to William Bradford 1774," The Founders' Constitution, [http://press-pubs.uchicago.edu/founders/documents/amendI\\_religions16.html](http://press-pubs.uchicago.edu/founders/documents/amendI_religions16.html) (accessed February 19, 2009)

<sup>13</sup> Levy, p. 25

<sup>14</sup> "New Jersey Constitution of 1776, ARTS. 18, 19," The Founders' Constitution, [http://press-pubs.uchicago.edu/founders/documents/amendI\\_religions28.html](http://press-pubs.uchicago.edu/founders/documents/amendI_religions28.html) (accessed February 19, 2009)

<sup>15</sup> "Pennsylvania Constitution of 1776, Declaration of Rights," The Founders' Constitution, [http://press-pubs.uchicago.edu/founders/documents/bill\\_of\\_rightss5.html](http://press-pubs.uchicago.edu/founders/documents/bill_of_rightss5.html) (accessed February 19, 2009)

<sup>16</sup> James Madison, “Memorial and Remonstrance Against Religious Assessments,” The Religious Freedom Page, [http://religiousfreedom.lib.virginia.edu/sacred/madison\\_m&r\\_1785.html](http://religiousfreedom.lib.virginia.edu/sacred/madison_m&r_1785.html) (accessed February 19, 2009)

<sup>17</sup> Levy, pp. 55, 58

<sup>18</sup> “Thomas Jefferson (1743-1826),” National Portrait Gallery, Smithsonian Institution, <http://www.npg.si.edu/exh/travpres/jeff1s.htm> (accessed February 19, 2009)

<sup>19</sup> Thomas Jefferson, “The Virginia Act For Establishing Religious Freedom,” The Religious Freedom Page, <http://religiousfreedom.lib.virginia.edu/sacred/vaact.html> (accessed February 19, 2009)

<sup>20</sup> ProCon.org

<sup>21</sup> William L. Reese, Dictionary of Philosophy and Religion (New Jersey: Humanities Press, 1980), s.v. “John Locke,” p. 417

<sup>22</sup> *Ibid.*, p. 418

<sup>23</sup> Steven Voigt, “The natural lawyers, Part 3—John Locke’s legacy,” RenewAmerica, <http://www.renewamerica.us/analyses/060403voigt.htm> (accessed February 19, 2009)

<sup>24</sup> Levy, p. 65

<sup>25</sup> Alexander Hamilton, James Madison, and John Jay, The Federalist, on the New Constitution (Hallowell: Masters, Smith & Co., 1788), <http://books.google.com/books?id=ytMEk6O4IvIC&pg=PA394&lpg=PA394&dq=%5C#PPR1,M1> (accessed February 19, 2009) p. 374

<sup>26</sup> “The Debates in the Convention of the State of Pennsylvania on the Adoption of the Federal Constitution 1787,” Constitution.org, [http://www.constitution.org/rc/rat\\_pa.txt](http://www.constitution.org/rc/rat_pa.txt) (accessed February 19, 2009)

<sup>27</sup> Levy, p. 65

<sup>28</sup> James Madison, “James Madison, Virginia Ratifying Convention,” The Founders’ Constitution, [http://press-pubs.uchicago.edu/founders/documents/amendI\\_religions49.html](http://press-pubs.uchicago.edu/founders/documents/amendI_religions49.html) (accessed February 19, 2009)

<sup>29</sup> “Debate in North Carolina Ratifying Convention,” The Founders’ Constitution, [http://press-pubs.uchicago.edu/founders/documents/amendI\\_religions52.html](http://press-pubs.uchicago.edu/founders/documents/amendI_religions52.html) (accessed February 19, 2009)

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> Levy, p. 66

<sup>33</sup> Edmund Lindop, The Bill of Rights and Landmark Cases (New York: Franklin Watts, 1989) p. 14

<sup>34</sup> Ibid., p. 14

<sup>35</sup> Thomas Tredwell, "Thomas Tredwell, New York Ratifying Convention," *The Founders' Constitution*, <http://press-pubs.uchicago.edu/founders/documents/v1ch14s44.html> (accessed February 19, 2009)

<sup>36</sup> Church, p. 55

<sup>37</sup> Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986) p. 213

<sup>38</sup> Chester James Antieau, Arthur T. Downey, and Edward C. Roberts, *Freedom From Federal Establishment: Formation and Early History of the First Amendment Religion Clauses* (Milwaukee: The Bruce Publishing Company, 1964) p. 126

<sup>39</sup> Ibid., pp. 126-127

<sup>40</sup> Ibid., pp. 127-128

<sup>41</sup> Ibid., p. 128

<sup>42</sup> Ibid., pp 129

<sup>43</sup> Ibid., pp. 130-131

<sup>44</sup> Curry, p. 213

<sup>45</sup> Ibid., p. 215

<sup>46</sup> Ibid., p. 82

<sup>47</sup> Ibid., p. 82

<sup>48</sup> Ibid., p. 82

<sup>49</sup> Ibid., p. 82

<sup>50</sup> Ibid., p. 222

<sup>51</sup> Ibid., p. 220

<sup>52</sup> Ibid., p. 222

<sup>53</sup> Thomas Jefferson to Nehemiah Doge, Ephraim Robbins, Stephen S. Nelson, "Letter to the Danbury Baptists 1802," in *Library of Congress*, <http://www.loc.gov/loc/lcib/9806/danpre.html> (accessed October 18, 2008)

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Church, p. 60

<sup>57</sup> *Everson v. Board of Education*, 330 U.S. 1 (1947)

<sup>58</sup> Ibid., pp. 16, 18

<sup>59</sup> Ibid., pp. 16, 18

<sup>60</sup> Ibid., p. 17

<sup>61</sup> Ibid., p. 29

<sup>62</sup> For example, in *McCollum v. Board of Education* 333 U.S. 203 (1948), Supreme Court held that religious instruction for public school students in public school buildings violated the Clause. In *Engel v. Vitale*, 370 U.S. 421 (1962), the Court

ruled that recitation of a denominationally neutral prayer in public schools also infringed upon the Clause.

<sup>63</sup> Lemon v. Kurtzman, 403 U.S. 602 (1971)

<sup>64</sup> Ibid., p. 614

<sup>65</sup> Ibid., pp. 612, 613

<sup>66</sup> Lynch v. Donnelly, 465 U.S. 668 (1984)

<sup>67</sup> Ibid., pp. 675, 676

<sup>68</sup> Ibid., p. 726

<sup>69</sup> For example, see Edwards v. Aguillard, 482 U.S. 578 (1987) (barring limits on teaching the theory of evolution) and Bowen v. Kendrick, 487 U.S. 589 (1988) (permitting federal grants for family life counseling)

<sup>70</sup> McCreary County v. American Civil Liberties Union, 545 U.S. 844 (2005)

<sup>71</sup> Ibid., p. 752

<sup>72</sup> Van Orden v. Perry, 545 U.S. 677 (2005)

<sup>73</sup> Ibid., p. 689

<sup>74</sup> The White House, “The President’s Faith-Based and Community Initiative in 50 States: A Report to the Nation’s Governors,” The White House, [www.whitehouse.gov/government/fbci/president-initiative.html](http://www.whitehouse.gov/government/fbci/president-initiative.html) (accessed November 10, 2008)

<sup>75</sup> Hein, et al. v. Freedom From Religion Foundation, Inc., 127 S.Ct. 2554 (2007)

<sup>76</sup> Flast v. Cohen, 392 U.S. 83 (1968)

<sup>77</sup> Ibid., p. 103

<sup>78</sup> Anne Farris, “Confirmation Hearing Includes Alito’s Views on Religious Expression,” The Roundtable on Religion & Social Welfare Policy January 12, 2006, <http://www.religionandsocialpolicy.org/news/article.cfm?id=3698> (accessed February 21, 2009)

<sup>79</sup> Ibid.

<sup>80</sup> Church, p. 134

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## CHAPTER I

Introductory, concerning the pedigree of the Chuzzlewit family

As no lady or gentleman, with any claims to polite breeding, can possibly sympathise with the Chuzzlewit Family without first being assured of the extreme antiquity of the race, it is a great satisfaction to know that it undoubtedly descended in a direct line from Adam and Eve; and was, in the very earliest times, closely connected with the agricultural interest. If it should ever be urged by grudging and malicious persons, that a Chuzzlewit, in any period of the family history, displayed an overweening amount of family pride, surely the weakness will be considered not only pardonable but laudable, when the immense superiority of the house to the rest of mankind, in respect of this its ancient origin, is taken into account.

It is remarkable that as there was, in the oldest family of which we have any record, a murderer and a vagabond, so we never fail to meet, in the records of all old families, with innumerable repetitions of the same phase of character. Indeed, it may be laid down as a general principle, that the more extended the ancestry, the greater the amount of violence and vagabondism; for in ancient days those two amusements, combining a wholesome excitement with a promising means of repairing shattered fortunes, were at once the ennobling pursuit and the healthful recreation of the Quality of this land.

Consequently, it is a source of inexpressible comfort and happiness to find, that in various periods of our history, the Chuzzlewits were actively connected with diverse slaughterous conspiracies and bloody frays. It is further recorded of them, that being clad from head to heel in steel of proof, they did on many occasions lead their leather-jerkined soldiers to the death with invincible courage, and afterwards returned home gracefully to their relations and friends.

There can be no doubt that at least one Chuzzlewit came over with William the Conqueror. It does not appear that this illustrious ancestor 'came over' that monarch, to employ the vulgar phrase, at any subsequent period; inasmuch as the Family do not seem to have been ever greatly distinguished by the possession of landed estate. And it is well known that for the bestowal of that kind of property upon his favourites, the liberality and gratitude of the Norman were as remarkable as those virtues are usually found to be in great men when they give away what belongs to other people.

# A BRIEF HISTORY OF NORTH KOREAN REFUGEES IN CHINA

Jeong Hoon Lee

## Introduction

In the mid 1990s, North Korea was faced with one of the worst famines in modern history. Called the “Arduous March” by the North Koreans, the food shortage resulted in the deaths of an estimated 2 million people, approximately 10 percent of the entire population.<sup>1</sup> In the far-north of the peninsula, where the famine struck hardest, a massive migration of starving men, women, and children made its way into northeastern China. By the end of the 20th century, an estimated 300,000 North Korean refugees had flooded the streets of Tumen, Yanjing, and other northeast-Chinese cities.<sup>2</sup>

The famine’s emigration effects rapidly developed into a trend of widespread defection from North Korea. With the famine and oncoming rush of North Korean refugees into China, the world began to open its eyes to the plight of the refugees. But out of fear of exposing itself as a tyrannical and cruel regime to its people and the rest of the world, the North Korean government—with the force of law—used violence and social conditioning to

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try to prevent at all cost its citizens from crossing its borders and contacting the outside world.

For decades before the famine, these efforts had effectively contained defection from spreading among the general population, and North Korean refugee problems in China and North Korea remained insignificant in magnitude for most of the regime's history. But even this hard-line stance could not prevent defection entirely. North Koreans have been fleeing across the North Korean-Chinese border for various reasons since the regime took power after independence from the Japanese Empire in 1945. The reasons and incentives for defection changed according to the specific political and economic conditions of the time, but defection has nonetheless been a constant fear for the dictator and a dangerous hope for the people.

The government policies and actions North Korea and China took in response to the defections also fluctuated significantly over the past 50 years. In order to understand how and why these changes in government positions occurred, the history of North Korean-Chinese relations will first be examined.

### The North Korean Regime and its Relations with China

Since the division of the Korean peninsula into the communist North and the capitalist South after World War II, China has backed North Korea's leaders: Kim Il Sung and his son/successor, Kim Jong-Il.<sup>3</sup> The economic and political aspects are the most important factors in this relationship.

Politically, China has supported North Korea since 1950, when its soldiers flooded the Korean peninsula to fight alongside their North Korean comrades against the U.N.-backed South.<sup>4</sup> The war continued until July 1953. With massive casualties mounting on both sides and no signs of progress for either nation, North Korea and South Korea ended the war in an armistice.<sup>5</sup>

After the end of the Korean War, China remained politically close to North Korea. But it was not the smooth relationship some people assume it to be. In the 1960s, the alliance started to fall apart, once the Kim regime decided to join with the Soviet Union in the China-versus-Soviet ideological fight for dominance among Communist nations. The growing chaos of the Cultural Revolution had made North Koreans suspicious of Mao's China. Although the government initially supported China because it was openly advocating the orthodox Stalinist system of one omnipresent and omnipotent leader, the mess of the late 1960s brought on by Mao's purging and reorganization caused Pyongyang to have second thoughts. To the North Korean regime, the carnage of the Red Guards appeared as dangerous as Soviet de-Stalinization.<sup>6</sup>

But over time, North Korean-China relations regained their former sound footing as Kim Il-Sung eventually chose neutrality over siding with one single nation. By playing Moscow and Beijing against one another and resisting pressures to join one side unconditionally, Pyongyang was able to extract better conditions for trade and greater amounts of aid from both sides. But after the fall of the Soviet Union, North Korea fell back to remaining mostly dependent on China for economic and political support.<sup>7</sup>

Pyongyang's economic dependence on China is based on the food and energy supplies it receives. Nicholas Eberstadt, a consultant at the World Bank, says that since the early 1990s, China has served as North Korea's chief food supplier and has accounted for nearly 90 percent of its energy imports. By some estimates, China provides 80 percent of North Korea's consumer goods and 45 percent of its food. In 2008, China had a \$1.25 billion trade deficit with North Korea, which some experts see as an indirect Chinese subsidy.<sup>8</sup>

Geographically, North Korea's allegiance is important to Beijing as a bulwark against U.S. military dominance of East Asia as well as against the rise of Japanese military power. North Korea is the only barrier separating China from direct U.S. influence via South Korea. The Chinese government would rather share borders with North Korea than with a capitalist country. It is im-

portant that China maintains the support and stability of North Korea, even if it means taking financial losses for these reasons.<sup>9</sup> As a result, China has been historically reluctant to oppose North Korea openly.

### Pre-Famine Era

Before the “Arduous March” hit North Korea in the mid-1990s, motives for defection were predominantly different from the economic reasons that dominated later. This was because until 1995’s famine, North Korea enjoyed a significantly higher GDP per capita than China: defecting to China did not necessarily guarantee a more prosperous life. So in most cases, the reasons for defection were political.

The first major political reason has to do with the hierarchical social structure. Communist societies claim all people to be equal. Ironically, North Korea’s population is divided into three distinct classes: the loyal “core class,” a suspect “wavering class,” and a politically unreliable “hostile class.”<sup>10</sup> This division is based on political loyalty. Since the 1950s, the Kim regime has subjected its people to a series of political examinations in order to sort out those who are presumed to be loyal or disloyal to the regime. The political history of one’s parents, grandparents, and relatives as distant as second cousins is also a determining factor in the classification process.<sup>11</sup>

At the North Korean Party Congress in 1980, it was approximated that 25 percent of the population fell into the core class, 50 percent into the wavering class, and the remaining unfortunate 25 percent into the “hostile” class.<sup>12</sup> The core elite, the most privileged among the core class, were only 1 percent of the total population.<sup>13</sup>

The categorization into the three political groups still affects the lives of many, if not all, North Koreans to this day.<sup>14</sup> Only people classified as politically loyal can hope to obtain responsible

positions in North Korean society. People classified as members of the wavering class are unlikely to be considered for membership in the Korean Workers Party, the ruling Communist Party. People who fall into the hostile class are discriminated against in terms of employment, food, housing, medical care, and place of residence.<sup>15</sup> Many people with talent and drive were thus unable to progress in North Korean society due to this strict social division.<sup>16</sup> This systematic discrimination was one of the leading reasons for “non-loyal” North Koreans to defect.

Another reason was the very nature of North Korean society. Even today, North Korea is arguably the world’s most repressive regime. It scores at the absolute bottom on all standard measures with respect to regime type, political and civil liberties, and human rights. For example, for nearly a decade the nation received the lowest scores in the political rights and civil liberties indexes provided by Freedom House.<sup>17</sup> In addition to the denial of freedoms, North Korea also exhibited a number of peculiar political characteristics including a manipulative propaganda machine and extremely tight control of the information flow from foreign sources. The state socialist organization of the economy provided a powerful tool for monitoring and controlling the lives of citizens.<sup>18</sup> Distribution of food, consumption, and purchases were under the surveillance of the government. North Korea also frequently uses violence and force to control its citizens. There have been reports of torture, public executions, slave labor, forced abortions, and infanticides in prison camps.<sup>19</sup> For example, the following is from an interview with a former prison guard at Chongsong Camp No. 13:

A young girl prisoner, an inventory clerk, was caught pregnant at settlement No. 13 in the fall of 1989. Under torture, she confessed the name of a senior security officer [who was the father]. The investigators were furious so they cut open her belly, took out the baby and killed it by stamping on it. Then, they pushed an electric pole into her vagina and killed her by electrocution.<sup>20</sup>

North Korea was and still is an Orwellian nation, and those who were aware of the world they lived in were strongly motivated to defect.



North Korea tried to discourage defection by sending those suspected or caught defecting to the gulag, or political prison camps. The regime maintains a vast network of political prison camps that holds perhaps 100,000 to 200,000 political prisoners and an even larger network of lower-level labor training camps that have been used to punish crimes against the State.<sup>21</sup> In these camps, prisoners are forced to labor on State-run projects that include farming, mountain logging, road works, stone quarrying, brick making, coal mining and construction. One 42-year-old teacher from Hoeryong described the nature of forced labor at the Onsong labor training camp in 2003:

We were sent to the mountains to carry stones on our backs or heads. Because of the friction, the skin on my back peeled and bled. We had to load the stones onto a truck, which was then taken to a building site. It was such hard work that people fainted. Guards were always yelling and hitting the prisoners. When we worked on this project, we didn't come home until 11pm. It took us over an hour to walk back to the prison camp.<sup>22</sup>

The Chinese government responded to the influx of North Korean refugees with a policy of *refoulement*—defined as the returning of refugees to places where their lives or freedoms could be threatened.<sup>23</sup> UN Special Envoy Vítit Muntahorborn supported the view that North Korean refugees were “refugees *sur place*” and deserving of protection under the 1951 U.N. Convention on Refugees and its 1969 Protocol to which China is a signatory, making North Koreans eligible for refugee status and thus immunity from *refoulement*.<sup>24</sup> But China argued that North Korean defectors were not refugees but rather economic migrants.<sup>25</sup>

China maintained this policy regardless of international pressure because of its unique political-economic relationship with North Korea. In the pre-famine period, defection, whether for political or economic reasons, undermined North Korean power and authority. The North Korean government based its power on control and submission. Any sign of weakness by the government would be fatal for the regime. North Korea had political reasons to discourage defection, and it was in China's interest to keep the North Korean dictatorship alive.

## Famine Era

Through 1995 to 1996, a series of severe winters and summer-time floods struck a harsh blow to the already economically weak North Korea.<sup>26</sup> Corn production dropped from 2.4 million tons in 1990 to 1.5 million tons in 1997,<sup>27</sup> rice production dropped from 1.8 million in 1990 to 1.3 million in 1995,<sup>28</sup> and total grain production dropped from 5.3 million tons in 1986 to 3.5 million in 1995.<sup>29</sup> Other factors such as the demise of the Soviet Union, which had supported the country with heavily subsidized supplies of energy, fertilizer, and manufactured product, exacerbated the food shortage. It was during this time that North Korean defection started rising exponentially. The number of North Korean defectors entering South Korea jumped seven-fold between 1993 and 1996 from 8 to 56.<sup>30</sup> Unfortunately, the number of defectors living in China could not be accurately estimated because the Chinese government had banned systematic counting of the North Korean population in China. However, independent sources approximate the refugee population to have peaked in 1998 at the 100,000 to 300,000 range.<sup>31</sup>

Over 90 percent of defections during this period occurred in the northern provinces of North Korea.<sup>32</sup> This geographical tendency occurred for several reasons. The most obvious was that it was much easier for those living in the North to defect because of the proximity with the Chinese/North Korean border—especially in consideration of the fact that people were not allowed to travel without government permission slips in North Korea.<sup>33</sup>

Another reason for this geographical discrepancy is the high discrimination the residents there faced. These disadvantages were present in all aspects of North Korean life—ranging from social classification to food distribution. Many living in the north were considered as either part of the “wavering” or “hostile” class.<sup>34</sup> Topographically, the northern part of the country is highly mountainous and unsuited for agriculture. The central government regarded this region with less importance than the southern

regions. So people living in the north received lower rations, less aid, and faced higher political and economic barriers. The discrimination further agitated the already starving northerners.

However, probably the most decisive factor was the fact that the north was hit hardest by the floods and cold winters. Estimates show that nearly 20 percent of the northern population died during the “Arduous March.”<sup>35</sup>

At the height of the famine, 300,000 North Korean refugees found shelter in China.<sup>36</sup> Initially, the ethnic Korean population in China welcomed its struggling neighbors. This hospitality can be attributed to several factors. First of all, Koreans—in both Korea and China—have a strong sense of unity. It was only in the last half a century that the nation was divided into two. For over 1,000 years, the Korean peninsula was under the rule of a single government. This unity is observable even statistically. Over 80 percent of North Korean refugees in China interviewed in a survey reported that they received help from the local Korean-Chinese population during their stay in China. Seventy-six percent said they resided in a Korean-Chinese house.<sup>37</sup>

Also, a significant portion of the ethnic Korean population in China felt indebted to the North Koreans. During the 1960s, when the Northeastern region of China faced a famine of its own, many Chinese-Koreans went to North Korea for food and shelter. Much of today’s Chinese-Korean population either directly received help from the North Koreans or indirectly through relatives and friends who did receive aid in the 1960s. During the initial stages of the North Korean famine, the Chinese population thought it was their moral duty to help the North Koreans.<sup>38</sup>

The Chinese government at this time seemed to have responded with an intentional blind eye.<sup>39</sup> First of all, as North Korea’s closest ally, China decided that it would be a more prudent diplomatic move to allow the North Koreans into the country. The North Korean government was facing extreme difficulty dealing with the famine. It even had to temporarily abandon its national ideology of *Juche*, or self-reliance.<sup>40</sup> China’s acceptance of the refugees was actually helping the North Korean government by

taking a load off the regime's back.<sup>41</sup> There were also economic incentives for China to keep the North Korean refugees within its borders for the time being—as cheap labor.<sup>42</sup> North Koreans provided Chinese employers with a labor source that could not demand legal protection and market wages.

North Korea also took little action to prevent the increasing defection. The nation was facing serious economic and political problems and did not have the resources to either shut down border crossing altogether or help its citizens.<sup>43</sup> The North Korean economy struggled for existence. The nation's economic growth rates averaged -3.85 percent between 1990 and 1998.<sup>44</sup>

But once it gained back some of its previous ability to control in the late 1990s and early 2000s, the regime reinstated various policies such as enforcing travel limitations and strengthening border control. In addition, the authorities invested in a vast network of informers to expose dissidents and potential defectors through routine surprise security checks on homes and entire communities.<sup>45</sup>

As more and more refugees flowed into the streets of the Chinese cities, attitudes towards the refugees changed and Korean-Chinese generosity wore down in China. Refugees started engaging in criminal activities, such as vagrancy and prostitution. The Chinese officials started taking action. It enforced its old policy of refoulement and penalized those who helped the North Koreans.<sup>46</sup>

In addition to the rising refugee crime participation rates, the Chinese government wanted to avoid a situation that could destabilize the border region, such as the collapse of the North Korean regime. Near the end of the 20th century, North Korea had started to regain stability with the help of foreign aid and better—though not great—harvests.<sup>47</sup> Once the government regained some of its former power when the nation grew by 6.6 percent in 1999, China's accepting refugees suddenly became harmful for North Korean authority.<sup>48</sup> China's reenactment of the refoulement policy was a response to this change.

## Post-Famine Era

Even after the worst of the “Arduous March” was over, defection continued. In the early 2000s, North Korean refugee population in China peaked. Estimates during this time ranged from as low as 10,000 (the official Chinese estimate) to 300,000 or more. Press reports commonly cited a figure of 100,000-300,000, and the State Department of the U.S. projected the range to be between 75,000 and 125,000 in 2000.<sup>49</sup> The number of North Korean defectors entering South Korea also grew dramatically to 1,281 in 2003 from 52 in 1994.<sup>50</sup> With the turn of the millennium, North Koreans could be seen openly walking through the streets of border-cities in China. Females started to constitute the majority of refugees, and the social problems that had arisen with the mass influx of male refugees in the late 1990s started to decrease.<sup>51</sup>

But that all changed when the North Korean refugees gained the international spotlight. With the help of international human rights organizations, humanitarian NGOs, and religious groups, the North Korean refugees attempted a series of embassy stormings by scaling the walls or sneaking past the police of foreign embassies in China. By entering embassy territory, North Koreans were able to gain protection from refoulement, and eventually be transferred to nations like South Korea and the United States, where they would be granted asylum. Apparently, Beijing was not too pleased about this. Refoulement rates reached their highest ever in the early 2000s and fines for helping North Koreans were multiplied. It became harder for Chinese-Koreans to aid the refugees. And an increasing number of refugees were shipped back to North Korea, where they faced unspeakable punishments.<sup>52</sup> For instance, at the time of Kim Jong Il’s visit to China in 2000, the Chinese government intensified the search for North Korean defectors and repatriated at least 6,000 defectors.<sup>53</sup>

The trafficking of North Korean female refugees also started becoming a major problem as the female percentage of total refugees grew. Many of the female refugees ended up victims of a sex trade between North Korean brokers and unmarried Chinese men

from rural areas. The problem had become so serious that more than 80 percent of North Korean females were reported to have ended up victims of the trafficking.<sup>54</sup> Contributing to this situation was the shortage of women in China resulting from China's one child policy. Since the onset of the one-child policy, there had been a steady increase in the male-to-female gender ratio, from 1.06 in 1979, to 1.11 in 1988 to 1.17 in 2001. Ratios were up to 1.3 in rural Anhui, Guangdong, and Qinghai provinces.<sup>55</sup> North Korean females were in demand, especially in the rural areas where female population was decreasing, and human traffickers lured them into China with the promise of jobs.<sup>56</sup>

But once the uproar from the embassy storming had cooled down around 2007, China started to show some signs of partially easing up on its policy of refoulement after several years of strict enforcement. China reportedly issued temporary-resident permits to some North Korean refugees. These permits were granted to North Korean refugees married to Chinese men. But these were issued only in certain villages and under a limited scope. Most of these reports of China giving permits to North Koreans were from China's inner and western regions, not the northeast where most North Koreans refugees lived.<sup>57</sup>

North Korea's stance on defection also began to relax. Whereas during the 1990s North Korea imprisoned even family members of defectors, in the new millennium it decided to stop this practice.<sup>58</sup> North Korean leaders might have calculated that the refugee situation posed little threat to the regime. Because the flows of refugees have been going on for years, it is likely that the refugees have already been politically triaged, in that most individuals of any political importance have either already left or been caught. New border-crossers could be considered politically insignificant by North Korea's leadership. Indeed, in some sense, China's provinces have provided North Korea with a useful way to export its economic problems as the migration may have protected thousands more people from starvation.<sup>59</sup>

The general pattern of North Korean defection has also changed with the turn of the century. Whereas in the post-famine

period, refugees left North Korea for survival, today, they are leaving for other reasons, such as better education opportunities, higher paying jobs, and more economic freedom, that are very similar to why Latin Americans migrate to the United States.<sup>60</sup> The GDP per capita gap has grown rapidly between the North Korea and China since 1995—when China surpassed North Korea for the first time—and as of 2008, China’s was 3.27 times higher than North Korea’s. That gap only gets wider as China reaps the bounties of economic prosperity and double-digit growth rates. Living in China also insures more economic freedom than living in North Korea. China scored an average of 53 out of a possible 100 on the Heritage Foundation’s “Index of Economic Freedom,” compared to North Korea’s meager 8.9 from 1995 to 2000.<sup>61</sup>

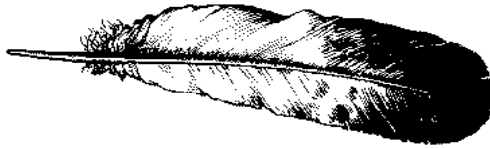
A higher standard of life and more economic freedom have been the most influential incentives today for migration to China in the 21st century. In a recent survey conducted by the East-West Center, 57 percent of the refugees interviewed reported economic conditions as their primary motivation for leaving the country.<sup>62</sup> Though traditional reasons such as political freedom (27 percent) and fear (8 percent) still constituted a large portion of the motivations, North Korean migration to China is nevertheless steadily changing.<sup>63</sup> North Koreans have learned what is waiting for them on the other side of the border: more food, more clothes, and more freedom. Defection is no longer just a flight from persecution and death. It is a search for economic riches and opportunities. China, with its unprecedented economic growth, provides just that.

## Conclusion

The reasons for North Korean defection are extremely varied—ranging from political oppression to instinctual survival—and the grounds for government reactions are diverse. Over the last half a century, the Chinese government’s treatment of the refugees depended on many factors, including its political alli-

ance with North Korea, and domestic circumstances such as the labor market and an increasing gender-ratio gap. North Korean actions reflected the government's capacity to control its citizens; if it had the economic and political ability to keep its citizens from defecting, it did so at all costs using fear, conditioning, and punishment. If it did not, it turned a blind eye.

No one knows for sure what lies in store for the North Korean refugees. But one thing is for certain: their future will be shaped by the changes in the political and economic environment.





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<sup>13</sup> Stephan Haggard and Marcus Noland, “Political Attitudes under Repression: Evidence from North Korean Refugees,” (East-West Center Working Papers No. 21, March 2010) p. 1

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<sup>16</sup> Ibid., pp. 6-9

<sup>17</sup> Freedom House, “Freedom in the World—North Korea (2002-2010),” Freedom in the World 2002-2010

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<sup>30</sup> Sung Ho Ko, Kiseon Chung, and Yoo-seok Oh, "North Korean Defectors: Their Life and Well-Being After Defection," Asian Perspective Vol. 28, No. 2 (2004) p. 68

<sup>31</sup> Margesson, p. 4

<sup>32</sup> International Federation for Human Rights, pp. 4-6

<sup>33</sup> Ibid., p. 7

<sup>34</sup> Ibid., pp. 4-6

<sup>35</sup> Marcus Noland, Sherman Robinson, and Tao Wang, "Famine in North Korea: Causes and Cures," (Nautilus Institute, February 9, 1999) pp. 3-4

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<sup>37</sup> Yoonok Chang, Stephan Haggard, and Marcus Noland, "Migration Experiences of North Korean Refugees: Survey Evidence from China," (Peterson Institute for International Economics Working Paper Series 08-4, March 2008) p. 7

<sup>38</sup> Ibid., p. 7

<sup>39</sup> Database Center for North Korean Human Rights, Interview with INGO Affiliate

Because the INGO affiliate is working undercover and illegally in China helping North Korean refugees, his name and the organization was asked to be not revealed. The interview took place at the Database Center for North Korean Human Rights on February 11, 2010.

<sup>40</sup> On North Korea's ideology of self-reliance, see Cummings, pp. 413-429. "Self-reliance is not a matter of mere rhetoric. North Korea offers the best example in the postcolonial developing world of conscious withdrawal from the capitalist world system and a serious attempt to construct an independent, self-contained economy; as a result it is the most autarkic industrial economy in the world."

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<sup>43</sup> Stephan Haggard, and Marcus Noland, "Hunger and Human Rights: The Politics of Famine in North Korea," (U.S. Committee for Human Rights in North Korea, 2005) pp. 12-17

<sup>44</sup> Bank of Korea, The Major Economic Indicators of North Korea 2003

<sup>45</sup> Freedom House, "Freedom in the World—North Korea (2002)," Freedom in the World 2002

<sup>46</sup> Interview with INGO Affiliate

<sup>47</sup> Human Rights Watch, "A Matter of Survival: North Korean Government's Control of Food and the Risk of Hunger," Human Rights Watch Vol. 18, No. 3 (May 2006) p. 12

<sup>48</sup> Bank of Korea

<sup>49</sup> Margesson, p. 4

<sup>50</sup> Ko, Chung, and Oh, p. 68

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<sup>52</sup> "The Invisible Exodus," pp. 16, 20-27

<sup>53</sup> Ko, Chung, and Oh, p. 73

<sup>54</sup> Suzanne Scholte, "Victims of Trafficking," paper presented at the Congressional-Executive Commission on China (May 1, 2009) p. 3

<sup>55</sup> Therese Hesketh, Ph.D., Li Lu, M.D., and Zhu Wei Xing, M.P.H., "The Effect of China's One-Child Family Policy after 25 Years," The New England Journal of Medicine Vol. 353, No. 11 (September 15, 2005) p. 1172

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<sup>61</sup> Terry Miller and Kim R. Holmes, Economic Opportunity & Prosperity: The 2010 Index of Economic Freedom (The Heritage Foundation and The Wall Street Journal, 2010)

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During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think; but this now being decided by the voice of the nation, announced according to the rules of the Constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others, and should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government can not be strong, that this Government is not strong enough; but would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm on the theoretic and visionary fear that this Government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man can not be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

BREAKING BOUNDARIES:  
JOHN JACOB ASTOR'S FUR TRADE

Emma Campbell-Mohn

**B**efore there were international giants like McDonalds, Coke, Pepsi, and Nestlé, economic markets were defined by regions. Regional restrictions were hard to overcome, and most businesses were dependent on their location, making them subject to regional conflicts. John Jacob Astor, Sr., an unknown German immigrant who became a multimillionaire, did not allow himself to be confined by location. Astor used his traveling experience to create a booming international fur trade stretching from Montréal to China. When regional conflicts developed, Astor continued to do business and maneuvered around these obstacles. Astor was one of the first American entrepreneurs to view trade as an international venture independent from political boundaries. This allowed him to act independently from the United States Government at times and deal directly with foreign governments when running his business.

At the beginning of his career in the fur trade, Astor used government treaties for his own interests. After the Jay Treaty was ratified in 1795, Astor immediately went to Canada to participate in

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the fur trade. The Jay Treaty allowed for direct trade with Canada. This meant Astor could trade internationally and compete with the previously established Canadian companies.<sup>1</sup> Astor's view of trade as an international function allowed him to make \$250,000 by 1800 through trade deals with the Native Americans, even before he founded the American Fur Company.<sup>2</sup>

After establishing trade with Canada, Astor purchased a shipping vessel in 1800 and began trading with Canton. By enlarging his trading network, Astor continued to view trade with an international perspective. He even acted independently from his nation to gain international commerce. When trading with Canton, Astor took advantage of established government ordinances to benefit himself. In the early 19th century, the United States allowed a trader up to 18 months to pay his import tax. According to Astor historian Anna Youngman, the government sanctioned these loans to make importing profitable. Astor delayed paying taxes on \$5 million. Although he eventually had to pay, the interval was the equivalent of a no-interest loan. While this policy was intended to protect businesses that could not pay the import tax and must wait to sell their products, Astor took advantage of it to garner a \$5 million interest-free loan to increase his trade.<sup>3</sup> By using government ordinances for his own purposes, Astor took advantage of the government to gain capital.

After his Canton trade was temporarily halted by the Embargo of 1807, Astor continued manipulating the United States government to benefit himself. The Embargo of 1807 disrupted his international trade,<sup>4</sup> yet the Embargo did not stop him. Instead, Astor conducted a clever scheme to trick the United States government into allowing him to continue his trade with China. Under suspicious circumstances, a person from Canton, Punqua Wingchong, was temporarily staying in New York and desired to return home for an important funeral. President Thomas Jefferson granted Wingchong an exemption from the Embargo allowing him to return to Canton. President Jefferson permitted Wingchong to choose his returning vessel. According to *The Dragon and the Eagle: the Presence of China in the American Enlightenment*, "Jefferson was

not aware...that Punqua was merely a pawn in a financial scheme devised by John Jacob Astor.”<sup>5</sup> Punqua chose one of Astor’s large merchant ships: the *Beaver*. The *Beaver* sailed with merchandise to trade with Canton and returned with Cantonese products, providing Astor with a temporary monopoly on embargoed products. Rumors abounded that Astor made \$200,000 on the trip.<sup>6</sup> Astor’s cunning and ability to manipulate larger politics to serve his personal desires allowed him to outsmart the competition and the government.

After the Embargo of 1807, Astor formed the American Fur Company. Unlike most fur trading companies, Astor’s American Fur Company was independent from the national government. Although Astor made deals and took advantage of treaties with the United States government, the American Fur Company remained autonomous. After Lewis and Clark’s exploration of the West, Astor received permission from President Jefferson to form a fur trade company that could challenge British competitors.<sup>7</sup> According to “Business Strategy and Practice in the Early Republic: John Jacob Astor and the American Fur Trade,” “Astor did not envision the American Fur Company as a government-chartered monopoly.”<sup>8</sup> Yet, he also believed that government should support him by not acting against his interests. Thus in 1808, the New York State Legislature granted Astor a corporate charter to form the American Fur Company. He then proceeded to sell the American Fur Company stock.<sup>9</sup> By remaining independent from the United States and state governments, Astor had the freedom to manipulate laws and treaties, illustrating his separation from the government.

The American Fur Company was unique from previously established fur trading companies, illustrating Astor’s ingenuity in separating himself from the government and trading internationally. A contrasting fur company was the Russian-American Company. Czar Paul I founded the Russian-American Company in 1799. Completely controlled by the government, the purpose of the Russian-American Company was to monopolize trade in Russia’s territories in North America, principally Alaska.<sup>10</sup> This

sharply contrasts with American Fur Company because Astor ran his business as an entrepreneur, essentially independent from the government.

Another contrasting and prominent fur trading company was the Northwest Company, a Canadian company founded in 1779.<sup>11</sup> Like the American Fur Company, it was not a government company, but rather a partnership. This differs slightly from the American Fur Company, which was predominately controlled by Astor and minor partners until Astor sold his stock.

The Hudson Bay Company contrasted with both the American Fur Company and the Northwest Company. The Northwest Company and the Hudson's Bay Company were fierce rivals and continually disregarded each other's territorial boundaries. King Charles II of England chartered the Hudson's Bay Company in 1670 granting it trade rights around the Hudson's Bay area and power to govern regions of Canada.<sup>12</sup> According to *John Jacob Astor*, the Hudson's Bay Company "ruled by right of charter, whereas the Northwest partners controlled by right of possession."<sup>13</sup> Astor had to find a place between these two competing companies.

In order to discover a niche between these competitors, Astor made deals with his competition in the Great Lakes region. Astor's multiple attempts to make deals with his foreign rivals illustrates his independence from his country and an ability to negotiate internationally. In 1811, the American Fur Company and the Michilimackinac Company (also known as the Mackinac Company) created the Southwest Company. The Southwest Company traded around the Great Lakes region and split its profits and costs equally between the American Fur Company and Michilimackinac Company.<sup>14</sup> The territory restrictions on the Southwest Company were vague, stating that it would not poach on the Northwest Company's ports on Lake Huron, but the exact boundaries remained indistinct.<sup>15</sup> This was advantageous to Astor who otherwise may not have gained an outlet in the Great Lakes region. However, this enterprise failed due to hostilities between the United States and Britain during the War of 1812.<sup>16</sup>

In addition to the Southwest Company, Astor also formed the Pacific Fur Company, which was a joint-stock company comprised of Astor and former trappers of the Northwest Company. Initially, Astor wanted to make a deal with the entire Northwest Company to create a joint venture extending to the Northwest Coast. Although the Northwest Company implemented a Northwest expedition, they did not want to collaborate with Astor. Thus, the Pacific Company and the Northwest Company competed for furs along the Northwest Coast. The Pacific Fur Company's headquarters were at Astoria in modern-day Oregon. During the War of 1812, the British government promoted the Northwest Company's expansion into the Northwest Coast. Eventually Astoria was abandoned, making the Pacific Fur Company an unsuccessful venture.<sup>17</sup>

Not only did Astor form agreements with competitors, but Astor also dealt with other governments directly to obtain capital. For example, Astor dealt with the Russian government to reach a trade agreement beneficial to the American Fur Company. After U.S. Ambassador John Quincy Adams failed to reach an agreement with Russian Chancellor Count Rumiantzov, Astor made a deal directly with the Count. Astor worked with Treasury Secretary Albert Gallatin to obtain an audience with Count Rumiantzov for his daughter and son-in-law to negotiate an agreement. Count Rumiantzov accepted their agreement with the exception that the Russian-American Company would be in control. The four-year agreement stated that the Russian-American Company and the American Fur Company would work together against those trapping in Russia's, and now Astor's, fur-trapping area. The Russian-American Company and the American Fur Company would also help each other. Both the Russian-American Company and the American Fur Company would not sell arms to Native Americans. This was a large concern for the Russians. In exchange, the American Fur Company had exclusive rights to supply the Russian ports, receiving payment in pelts. The American Fur Company gained exclusive rights to bring furs to Canton to sell on commission and return with proceeds, deducting the freight charges.<sup>18</sup> Astor's ability to reach agreements with international

governments allowed him to expand his trade into regions his competitors could not touch. With the American Fur Company and Russia-American Company working against other companies trapping in their area, Astor expanded his business beyond those of the British and Canadian companies.

While Astor controlled the international ventures of the American Fur Company, he also dealt directly with the traders. Astor required his traders to pay in gold specie, not the local currency. By trading in gold, he did not have to worry about international or regional changes in currency. From Astor's and Ramsay Crooks' letters, it appears that trading in gold was part of Astor's business policy. In a letter, Crooks complains because of the lack of gold in the Great Lakes region.<sup>19</sup> Trading in gold appears to be part of Astor's independence from local markets, allowing him to trade on an international scale.

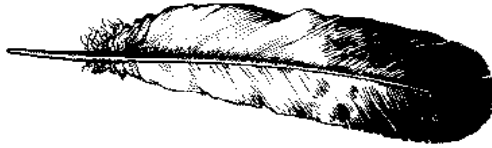
Trading on an international level became increasingly difficult during the War of 1812, yet Astor continued to deal directly with other countries and with his own government. When asked by his friend, Secretary of the Treasury Gallatin, to loan the United States Government capital to finance the War of 1812, Astor acquiesced. He bought \$2 million worth of government bonds. He then suggested to another wealthy trader that they both loan the government additional funds. Astor continued to buy bonds as the government became increasingly desperate. Yet, he did not appear altruistic in his buying of bonds. According to *John Jacob Astor*, Astor "thumbed his nose at both sides by floating part of the war loan in London."<sup>20</sup> This means that he sold the U.S. bonds in London for a profit. Pursuing his own interests, Astor made money from assisting both sides in the War.

Not only did he float the loans, but Astor also traded in London. Astor traded through British blockades by flying the Russian flag on his ship *Hannibal* because of his partnership with Russia. Russia was an ally of Britain, and thus Astor was allowed to pass the blockade. Astor then sold his furs in London, illustrating his lack of compunction against trading with the United States' enemy.<sup>21</sup>

Yet, the War still presented problems for Astor. The British invaded areas around the Great Lakes, causing the inhabitants to evacuate, adding difficulty for traders in that area. Ramsey Crooks, a trader for Astor, expresses this to Astor in a personal letter.<sup>22</sup> Astor surmounted these difficulties and through his ingenuity, and the American Fur Company prevailed.

Through looking at the world in a global perspective, Astor separated himself from the United States government. This allowed him to manipulate situations to his benefit. Astor used government treaties to benefit himself. These treaties allowed him to view trade with an international perspective. Yet, he remained autonomous from the government and took advantage of government ordinances to gain capital. His savvy was not limited to established government mandates. He even tricked the government into allowing him through blockades in violation of the Embargo of 1807. When establishing his fur trading company, he remained independent, unlike many other fur-trading companies of the early 18th century. Astor changed the fur trading business by expanding to the Northwest and attempting to make large deals with other companies. Astor did not limit himself to other companies; he also made deals with foreign governments directly. Astor expressed his international perspective to his traders. He required them to trade with gold, allowing him to trade easily with other countries. He even used subterfuge when buying bonds from the United States government during the War of 1812 by floating these bonds in London. By separating himself from his nation, Astor continually acted in his own best interest to gain capital. Astor was progressive in his trading because he remained separate from the government, communicated with foreign governments, and made deals with other fur trading companies. He took advantage of any situation presented. By trading across North America, China, and Europe, Astor gained international influence by changing the way fur traders traded across the world. Astor used his cunning to grow from an unknown immigrant to one of the richest men in the United States at the time. Astor's ability to view commerce as an international venture with negotiable politics allowed him

to increase his trade tremendously, setting an example for future entrepreneurs and large corporations who trade around the world and influence politics daily.



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## ANALYZING THE HERMIT KINGDOM OF NORTH KOREA

Min Kyung Ko

Today, North Korea is infamous for its isolation, poverty, evil dictator(s), uncooperativeness with the international community, and dangerous nuclear capabilities. To achieve its current state, North Korea was heavily influenced by its rulers. Since its independence in 1948, North Korea has experienced only two leaders, who taught self-reliance and required loyalty of the people to the authorities. Such isolation and loyalty contributed to elevation of the leaders' status, and the dictators were "worshipped" as gods who had unlimited, unquestionable power. Therefore, even when a significant portion of the North Korean population was dying of starvation, rulers Kim Il Sung and Kim Jong Il continued to build statues and monuments in dedication to themselves, and no one dared to question them. The Kims' fearful reign and the people's obedience created the most unstable, isolated state of the 20th century, earning the title of the "hermit kingdom."

Traits of isolation may be seen in the history of North Korea, when Korea's rulers adopted a closed-door policy during the mid-19th century, while western imperialists worked to expand their influence. Even though it recognized China's imperial hegemony in East Asia, Korea remained independent until

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Japan's colonization in the 19th century. Japan, a rising eastern imperialist during this time, targeted its neighboring country and fought two other powers, China and Russia, during the Sino-Japanese War of 1894-1895 and the Russo-Japanese War of 1904-1905 for the control of Korea. Japan was victorious in both wars, and it formally annexed Korea into its empire in 1910. The use of the Japanese language was strictly enforced, Koreans were given Japanese names, and resistance movements were violently suppressed. Japan's rule over Korea continued until World War II. After the atomic bombs that ensured Japan's surrender in World War II, Korea was immediately divided into two territories, with the Soviet Union administering the North and the United States the South. While the United States established an American military government and supported Rhee Syngman as South Korea's first president, the Soviet Union selected a trusted Red Army officer by the name of Kim Il Sung to rule North Korea.

### The Kim Dynasty

An autobiography is only to be trusted when it reveals something disgraceful. A man who gives a good account of himself is probably lying.<sup>1</sup>

—George Orwell

A wandering, uneducated guerrilla fighter was made a totalitarian dictator over 22 million people with unlimited power to shape the country as he wished. In order to gain support, Kim Il Sung fabricated his lackluster past into a "story" of a triumphant fighter fully worthy of the seat of ruler. Little is known about the childhood of Kim Il Sung, but evidence shows that he spent most of his elementary and middle school years in southern Manchuria, a "political sanctuary for anti-Japanese Korean Communist and nationalist movements."<sup>2</sup> Kim's Christian parents were active participants in religious movements and anti-Japanese movements in Korea, which eventually forced them to flee the country in 1920 to Manchuria.

Kim grew an interest in Communist ideologies at the young age of 14, and his proclaiming his support for Communism led to his expulsion from school and several terms in jail. In 1931, he joined the Communist Party of China, a predominantly Korean organization; the Communist Party of Korea was thrown out of the umbrella organization for being too nationalist. His career as a guerrilla fighter began, and in 1934, Kim joined the Northeast Anti-Japanese United Army, which was under the command of the Chinese. Participating in several guerilla activities, Kim once controlled a few hundred men known as “Kim Il Sung’s division,” carrying out mostly hit-and-run raids on the Japanese police. The Japanese began targeting the guerrillas in 1940 in China, forcing Kim and his remaining army to cross into the Soviet Union. Kim eventually became a captain in the Soviet Red Army, in which he served until the end of World War II.<sup>3</sup>

At age 33, Kim came back to his mother nation on August 22, 1945, fluent in Mandarin but not in Korean, after fighting for the Soviets and being placed there by Joseph Stalin. The Soviet Union declared war against Japan after the Hiroshima bomb, and Japan surrendered after the Nagasaki bomb. After the Soviets declared the creation of the Democratic People’s Republic of Korea on September 9, 1945, it neglected to create an entire government, as the United States had done in South Korea, and left Kim as the sole leader of the country. Having earned some distinction in the Red Army, political officers believed Kim was “confident, affable, and self-disciplined.”<sup>4</sup> However, Kim’s record of guerrilla fighting was not an appealing quality for a leader, and Kim, being aware of this fact, ordered all his officials to edit selected works and destroy all the evidence of how he came to power. Also, any records of Kim worshipping the Soviet Union and of all other nationalists were destroyed, and in the end, the remaining facts stated that Kim founded the Korean Communist Party in 1933. He had rewritten his past so that it would be “politically more appropriate.”<sup>5</sup> Communist leaders during this time commonly used this method of revising their pasts to ensure the continued support of their citizens. For example, Mao Zedong, the revolutionary leader of China, had several policy disasters during his rule that led to the

deaths of more than 30 million Chinese civilians. The Great Leap Forward, Mao's attempt to rapidly industrialize China, brought mass starvation and deaths, and the Cultural Revolution brought the killing of many intellectuals. Despite his failures, however, Mao is considered a hero in China's history, through the help of large-scale propaganda and a bureaucracy devoted to the task of fabricating and controlling history,<sup>6</sup> while remaining one of the most controversial figures. Similarly to Mao, Kim Il Sung concealed all the defective portions of his original biography and created a more impressive one. Kim Il Sung's fabrications continued until the Korean War, when Kim launched the initial attack against the South, and suffered a defeat. He announced to his people that Korea had become a victim of foreign aggression and that he did not plan or prepare the invasion.<sup>7</sup> George Orwell once wrote, "He who controls the past, controls the future; and he who controls the present, controls the past,"<sup>8</sup> which precisely describes Kim's efforts to embellish his past in order to retain authority in the future. To his people, Kim was presented as a flawless revolutionary war hero who founded the country of North Korea and won a war against the Americans during the Korean War.

Kim Jong Il, Kim's eldest son, was the leading supporter of his father's rising status and contributed tremendously to polish Kim's "holiness." In the midst of the country's severe famine that was devastating the population, he continued to build memorial buildings and lavish palaces in dedication to his father. After his father's death in 1994, the younger Kim declared a three-year mourning period and abolished the office of the presidency so that his father would remain as the country's "eternal president."<sup>9</sup> The ruling party openly described Kim Il Sung as a god "superior to Christ in love, superior to Buddha in benevolence, superior to Confucius in virtue and superior to Mohammed in justice."<sup>10</sup> His son also built study halls all over the country where people were required to go and worship the Great Leader and memorize his speeches for several hours.<sup>11</sup> In addition, he began referring to his father's central ideology *juche* as "Kimilsungism," symbolically paralleling Marxism-Leninism, Stalinism, and others. Because

Kim was so god-like, his happiness became the people's main job, and unfavorable information had to be suppressed about "the Great Leader." Once, when Kim Jong Il reported the year's food production to his father, he inflated the number by several million tons, saying that it was a record-breaking year for North Korea in food production.<sup>12</sup> Out on the streets, however, people continued to starve due to the failure of the food distribution system, but people did not dare to tell Kim the truth. It is unlikely that Kim was completely oblivious to the disasters he had caused outside of his luxurious palace, but it is assumed that he ignored the situation merely because he could.

Kim Il Sung's successor and son, Kim Jong Il, directly inherited Kim's high status and power. According to the elder's theory, the Korean Revolution could not be completed in one generation and needed to be continued by the succeeding generation led by his son.<sup>13</sup> The junior Kim was placed as the Party Secretary in 1973, and he continued to build his power and support. The North Korean officials under Kim Il Sung were tied by personal loyalty, not class or national loyalty, so these followers easily shifted their allegiance to the next leader. Initially, Kim Jong Il's name was not mentioned in the North Korean media until 1980, and unofficial terms such as "party center" were used instead, in order to prevent domestic criticism and targeting. During this period, the power structure became a duopoly between Kim Il Sung and his son, with Kim Il Sung's power based on old revolutionaries and Kim Jong Il's more on younger elites. However, political dominance soon shifted towards Kim Jong Il, as "senior Kim reigned while the junior Kim actually ruled."<sup>14</sup> The "Dear Leader" (the title for the younger Kim), replaced his father in 1994 after he died unexpectedly of a stroke, as the chairman of the National Defense Commission, since the head of state position remained reserved to Kim Il Sung.

The successor's official slogan was "Expect no change from me."<sup>15</sup> Kim Jong Il had inherited not only a country, but also the entire governance system,<sup>16</sup> as making any amendments to the system might cause the younger Kim to lose his legitimacy as the



Great Leader's successor. Kim Jong Il used his father's method of embellishing his past: officers and writers surrounding Kim claimed that he was born in Baekdu Mountain, the highest peak of North Korea, that he understood the Marxist-Leninist ideology and *juche* by elementary school, and that he was an outstanding student and a leader among his peers. However, Kim was born when his parents were involved in guerrilla warfare in Manchuria, the *juche* ideology was not officially announced until Kim graduated from secondary school. Other information seemed questionable as well.

As the second leader of North Korea, the younger Kim lacked his father's charisma and military experience and rarely made public speeches. While his father was an eloquent leader with the ability to connect with the people, Kim Jong Il was better at the paperwork. His spoiled lifestyle and playboy image made outsiders doubt the survival of North Korea under the younger Kim, but he turned out to be more serious than others had predicted. Under Kim Jong Il, the military became more powerful than any political group in the country.<sup>17</sup> Kim Il Sung's Korean Worker's Party and his *juche* ideology was parallel to his son's powerful Korean People's Army and his "military first" ideology. The military came first when giving out food rations, and soldiers were allowed to go to production farms and take as much food as necessary. Isolation and secretiveness remained as defining characteristics of North Korea, even though the country did open up recently.

### *Juche* ideology

On December 1995, Kim Il Sung delivered his speech "On Eliminating Dogmatism and Formalism and Establishing *Juche* in Ideological Work" to party propagandists and agitators, addressing the many shortcomings and faults of the Soviet and Chinese methods that had been adopted during the Korean Revolution. Kim had wanted a new ideology more specific to Korea,<sup>18</sup> and his speech introduced his implementation of Marxist-Leninist

principles, which he called *juche*. In 1972, *juche* became the official ideology of North Korea. Often described as “self-reliance” by scholars, *juche* was further explained as the following by Kim Il Sung himself:

Establishing *juche* means, in a nutshell, being the master of revolution and reconstruction in one’s own country. This means holding fast to an independent position, rejecting dependence on others, using one’s own brains, believing in one’s own strength, displaying the revolutionary spirit of self-reliance, and thus solving one’s own problems for oneself on one’s own responsibility under all circumstances.<sup>19</sup>

The former president called for three specific applications of the philosophy: political independence, self-sufficient economy, and a self-reliant defense system.<sup>20</sup> As a result, foreign intervention would not be tolerated, there would only be interaction between socialist countries, and the entire population would be mobilized, respectively. *Juche* also became the justification for Kim’s dictatorship through the concept of superiority of a group over the individual, requiring the people’s absolute loyalty to the leading political party and the leader.<sup>21</sup> People were masters of the world, the ideology claimed, and people created history. However, historic development of society required the righteous leader, who the people had to faithfully follow in order to be true citizens and masters of the world.<sup>22</sup> Eventually, *juche* became an ideology used to discriminate against foreigners, and to prevent anything new from the outside world from entering, and it was a tool to try to elevate Kim to a god-like status.

### Xenophobia and Isolation

Kim’s ideology and its emphasis on self-reliance often made worse the conditions of the state and its people. In 1949, North Korea rejected the offer to join the Soviet Union’s trading system due to *juche*’s idea of self-reliance; therefore, its lack of experience with trade resulted in large amounts of debt when its trading partners complained about irregular deliveries and the low quality of the goods. The financial strain combined with

the stagnation of food production, which nearly came to a halt by 1990 after a short peak in the early 1970s. When Kim had the choice of either importing food or diverting military resources to the civilians, he boasted his confidence in the philosophy and created 10 megaprojects that he believed would double the size of the economy and completely solve the food problem. The projects included adding 494,000 acres of tidal flats to farmland, adding 741,000 acres of cropland by clearing hillsides, and building a \$3.5 billion Sariwon Potassic Fertilizer Complex.<sup>23</sup> All of the projects ended as failures due to unforeseen natural barriers and poor design of the facility, and they had the opposite effects by contributing to the economy's decline.

North Korea's attempted self-reliance removed the necessity of global interaction, and the country eventually became a completely isolated "hermit kingdom," with limited information entering and exiting the country. All demographical data became vague estimates due to the minimal amount of information released by the government, and the numbers were usually distorted. Tourism was completely prohibited until recently, but tourists are still very restricted in their activities. Cell phones are collected at the country's border, tourists are told what they can and cannot photograph, and they are prohibited from taking pictures on a moving vehicle.<sup>24</sup> A tour guide always escorts them, and if a visitor were found wandering away from his group, a police officer would take him back to his group. Due to North Korea's mistrust of outsiders, all activities of the tourists are carefully observed through telephone bugs and hidden cameras, and stories proving the monitoring is prevalent. In one instance, a Danish engineer in his hotel room complained how boring his project was and said he wished he had brought a pack of cards with him. The next day, his guide handed him a deck of cards.<sup>25</sup> North Korea makes an effort not to publicize the country's weaknesses, so the itinerary of the tours consists of visits to the statue of Kim Il Sung, his memorial palace, and other lavish monuments, usually avoiding the countryside. Pyongyang, the country's capital, and its extravagant buildings, boulevards and statues are all very misleading; the city's cleanliness and treasures may awe the tourists at first, but

it becomes obvious that the common traffic and commerce of a normal downtown are absent. North Korean citizens are usually never seen, and the only contacts the outsiders have with the locals are their guides. A German visitor wrote about his confusing trip to North Korea: "I do not have the feeling I was truly able to look behind the façade. Is there such a thing as a normal life, and what does it look like?"<sup>26</sup> Visitors who have seen the rural areas of North Korea describe it as being "somewhere in the Middle Ages" feeling they were travelling in a time warp.<sup>27</sup> The country's long period of isolation had stopped the development of rural areas, but the North Korean population were (are) never allowed to question their supreme leaders and their decisions.

### God-like Leaders

North Koreans believed and obeyed Kim's words, worshipped his statues, never doubted him, and deeply mourned at his funeral for several years. The leader had a reputation similar to a god to his people, one who made no mistakes and cared for his people dearly. Such a pious image was created and enforced by Kim himself, through fraudulent stories and propaganda. Kim's history was skewed so that nothing existed before his creation of the Communist Party, which denoted that North Korea would not exist without Kim and his Party. In fact, Kim's claim of establishing the Communist Party was also false. Because he was viewed as the founder, or father, of the North Korean state, the people were almost obliged to dedicate their lives and be obedient as a gesture of gratitude.<sup>28</sup> He was referred to as the "Great Leader," and students were taught of his greatness and achievements as part of their curriculum. Education was devoted to teaching the ideology and to praise the entire Kim family: the first songs taught are songs of praise to the Kims; history was the study of military victories of the Kims; math was the calculation of how many American soldiers North Koreans could kill; and art was drawing illustrations of the Kim family in their palaces.<sup>29</sup> In his book *Rogue Regime: Kim Jong Il and the Looming Threat of North Korea*, Jasper Becker wrote about

an interview he had with a middle school North Korean girl in 1986, regarding her thoughts about the two Kims:

[She] said that Kim Il Sung gave them their clothes, their toys, their schoolbooks, and that they loved him more than their fathers and mothers...The girl declared that she could live without her parents but never without the love of the Kims. Asked what would happen if Kim Il Sung died, she looked horrified and then said such a thing could never happen.<sup>30</sup>

His son, Kim Jong Il, further elevated the exaggeration of Kim's accomplishments as he entered the ruling party in 1964 and was soon in charge of the party's propaganda. He created revolutionary operas and works that emphasized the importance of dedication to the Great Leader, and he even erected a 70-foot-high statue of his father for his 60th birthday in 1972, which cost U.S. \$800 million.<sup>31</sup> Massive parades of the army were performed in front of the leaders and aired internationally to impress the world on special occasions such as the nation's anniversary.

The ideology of *juche* and self-reliance had the goal of increasing nationalism within North Korea and had the aim of motivating internal reform without the help of an outside nation. However, the results of this political philosophy were limited interaction between North Korea and outside nations, failures of overly ambitious projects that rather contributed to the decline of the economy, and the subservience of the people to the leader, who became larger-than-life. The supremacy of Kim Il Sung caused the population to stop thinking for themselves but rather for the satisfaction of the Leader, and the fear of persecution deterred them from questioning the Great Leader's policies. Kim's rewritten biography also carved a picture of a "heroic fighter" who founded a country and won a war into the people's minds.

## Famine

Only 18 percent of the mountainous fields of North Korea is arable, which is a very small number to provide for the entire population. The limited land is also overused, and the fertilizers

to maintain the nutrients in the soil could not be afforded, which prevented good use of land and limited productivity. The insubstantial availability of land combined with several years of severe drought and floods that completely destroyed the croplands, and food portions for North Koreans were at near-starvation levels. The floods of 1995 alone had ruined 1.3 million tons of food.<sup>32</sup> The food shortage has forced the country to seek international help since 1995, despite the country's attempts to keep up the *juche* ideology of self-reliance. The food distribution system had come to a halt by 1990, when distributors began to come only irregularly and eventually stopped coming due to the lack of production. A story of a young girl named Lim Choi described the situation:

At home, we ran out of rice and corn, which weren't replenished from the distribution station...Everyday [my mother] waited in line to get the rations. She had to wait almost 10 days to get much smaller rations compared to the previous ones...my mother roamed around, collecting some edible grass in order to make soup with corn flour... my father made paste with the mortar...He cut out some pieces from that paste with his coarse hands and gave them to us.<sup>33</sup>

The disintegration of Eastern Europe and the former Soviet Union discontinued the supply of parts necessary for agricultural production, natural disasters such as the cold front and floods damaged crops and cropland, and other agronomic problems built up with the eventual result of a significant food shortage in North Korea.<sup>34</sup> However, many analysts fault the political factors more than the natural disasters. Not only did the food deficit illustrate the incapability of the government to maintain an efficient public distribution system or adequate agricultural policies, it also revealed North Korea's social structure which "retains characteristics of a vertically-based hierarchy characteristic of traditional, or 'feudal,' organizations, rather than being characterized by the egalitarianism one might expect of a truly socialist society."<sup>35</sup> Food would always be given to the elite and military groups first and only then to the rest of the population; therefore, when production was low, limited supplies reached the civilians.

Because North Korea was isolated and no outside media were allowed to enter the country, the international community

was largely unaware of the crisis occurring in the Communist state. International aid workers who travelled through much of the country did not see a single death related to famine, which also confused outsiders even more. Inside the country, families were committing suicide, leaving their kids somewhere in hopes of someone else feeding them, selling their children, or even eating them as food.<sup>36</sup> Cannibalism had occurred as desperate civilians attempted to feed themselves, and stories of family massacres and the selling of human flesh as food emerged. Children, who need the proper nourishment during their early ages for proper growth, were visibly stunted and thin. In 1998, a nutritional survey was carried out with 1,800 North Korean children, and researchers found out that 62 percent of children under seven had stunted growth, and 30 percent of children aging between one and two suffered from moderate to severe malnutrition.<sup>37</sup>

Kim Jong Il rejected the suggestions of authorizing private gardens and of reducing the urban population. Seventy percent of the North Korean population was brought into the urban areas by the government due to the shortage of land, and they were not allowed to grow any food; also, the peasants, who were given a minuscule amount of land, were forbidden to sell their crops in urban areas.<sup>38</sup> Similarly to his father's reaction to the early food shortage, Kim Jong Il attempted to improve the situation by creating policies instead of implementing the suggestions given to him. The results were similar to his father's as well. North Korean scientists, under orders of the Dear Leader, promoted "alternative foods," which were cabbage stalks, corn stalks, and grasses ground up and mixed with cereal and enzymes made into noodles and cakes. These tasteless, zero-nourishment rations caused severe digestive problems, especially to children and the elderly.<sup>39</sup> In addition to feeding substandard food to his people, Kim's efforts went towards preventing the population from finding alternate ways to feed themselves: he tried to shut down markets that sprang up and any commercial activity was to be suppressed.<sup>40</sup> Kim Jong Il's "reasoning" behind his refusal of the aforementioned suggestions can be explained by the following quote:

...if a leader like Kim Jong-il were to strengthen the rights of the individual, he would be seen by the faithful as weakening the power of the state on which the people depend. It would be a crime. Similarly, if the economic reforms are introduced and wealth increases, individual thinking may spread and the need for the leader's fatherly guidance may diminish. Such weakening would be a crime against what they believe, which is in the power of the Leader. And so the state is stuck.<sup>41</sup>

Whether Kim granted his citizens the power to feed themselves or created reforms, both situations would lead to weakening the power of the State; therefore, the government took no effective action. Nongovernmental organizations estimated 2.8 to 3.5 million famine-related deaths during this period, a number close to 10 percent of the entire North Korean population.<sup>42</sup> Finally, when the elite groups were starting to feel the effects of the food shortage, Kim Jong Il opened up to the international community.

North Korea had received aid from other Communist countries in the past, such as the oil supplies from the Soviet Union and humanitarian aid from China, but for the first time in history, North Korea requested help from the international community. South Korea's offer of food aid had been routinely ignored, but it is now one of the leading providers to North Korea. In 1995, the South loaned 150,000 tons of rice, and the Japanese food agency supplied 427,000 tons of rice as well.<sup>43</sup> The World Food Program, the largest donor for humanitarian needs, has sent about 1 million tons of food aid annually since 1996, and has also built factories around the country that produced high-nutrition food. During this period, the WFP fed roughly 6.5 million North Koreans, about one-third of the entire population,<sup>44</sup> However, North Korea did not allow full access to aid workers, in fear of the workers learning too much about the society. Monitoring of food distribution was restricted, so the WFP was unable to determine if the food was distributed in the areas with the most need or not, but the North Korean government would not allow transparency. Nevertheless, there has been a decrease in deaths due to starvation, and many analysts see North Korea's allowance of international aid as hope for a more open country willing to reform.



## Human Rights

Every day, North Koreans live in fear. The wrong associates, the wrong family background, or the wrong words said during a conversation could easily result in demotion or severe punishment; therefore, civilians refrain from engaging in any interaction with others and merely carry out their jobs and live for their Dear Leader. Monitoring groups such as the People's Security Agency (PSA) and the State Security Protection Agency (SSPA) are in charge of searching for anti-revolution and anti-Kim personnel,<sup>45</sup> imprisoning those who they find guilty. The people are all very familiar with the possible punishments: public executions are held in front of many viewers to set an example. They have also seen people getting arrested and heard of the horror stories of the gulags and labor camps, from which few occasionally return. The aforementioned security groups also run these labor camps, and promotions are often given to those who execute prisoners, which encourages the killing. The fear that is engraved in the minds of the people is the cause of the silent streets of cities and the people's refusal to communicate.

According to North Korea's constitution, all people are given basic human rights. However, in reality, such rights are preserved only for the elites and the most loyal followers of the Kim family. In other cases, the written laws are hoaxes hiding the intentions of the government, which acts solely for its own benefit; most laws regarding women were created not to offer social equality between the two genders, but to encourage more women in the workforces working like men.<sup>46</sup> Furthermore, the law requiring a fair public trial carried out under strict accordance with the law simply cannot be followed due to the absence of a judiciary and of individual rights for North Koreans.<sup>47</sup> Hired lawyers, who are afraid of retaliation from the government if they were to defend an anti-Kim victim, are expected to encourage their clients to confess their guilt and help the court.<sup>48</sup> If charged of a crime, average civilians had no ways of preventing their sentences other than confessing, which would result in immediate execution. The

horrific nature of the labor camps, however, made death seem more appealing to many than a life of constant hunger and long hours of forced labor.

One uncontrollable variable haunted and imprisoned several generations of North Koreans and prevented families from acquiring respectable positions; Kim Il Sung ordered the imprisonment of three generations of opposition to the revolution.<sup>49</sup> Family background was a key factor considered to determine one's promotion or demotion for the paranoid Kims. Wishing no threat to their powers, the two Kims kept only those who remained loyal to them, awarded those who worked for them, and punished those who opposed them. The story of Kim Yong in the *Long Road Home*, a first-hand account of a North Korean defector, provides a perfect case of the importance of family background. Raised as an orphan, Kim Yong did not have any risks of condemning his future generations, and he grew up praising the Great Leader. After a high-ranking official in the Korean Worker's Party, the ruling party of North Korea, adopted him, he easily received several promotions largely due to his adoptive father's respectable position. However, Kim Yong's curiosity about his real family background led to the discovery of his uncle, who informed Kim that Kim's dad had been persecuted for being an American spy. In order to keep his job and protect his family, Kim fabricated his background with the help of his uncle. When the lies were revealed, Kim, who had devoted his entire life to glorify his Great Leader, was sent to be tortured for three months and sentenced to life-long labor. Kim's mother, uncle, wife and kids were all separated and sent to labor camps as well. Even though Kim had spent his whole life loyal to his Leaders and had given monetary tribute to them, the revealed history of his anti-revolutionary father resulted in the imprisonment of Kim and his entire family.<sup>50</sup>

Once accused of a crime, prisoners were sent to torture facilities where various torture devices and methods were used to force a confession from the accused. One method of torture was called the "frozen fish" position, when guards would force prisoners to sit on their knees during the winter in sub-zero temperatures,

causing severe frostbite and eventual amputation of fingers or limbs.<sup>51</sup> Another frightful torment was to trap prisoners in a box that was five feet in length and two feet in width for more than 24 hours, which would leave the victims crippled after being in a single position for such a time, if they even survived.

Survivors of the tortures were then transported to camps, where they served their life sentences of labor. At the concentration camps, work began at 5:30 A.M. and was suppose to end at 9:00 P.M. every night. However, officers often kept the prisoners working past 10 or 11 o'clock, for the officers' word was law in the prisons. Meals consisted of 500 grams of corn and a bowl of watered-down soup, which was insufficient even as a regular diet of a civilian. Such small rations of food were inadequate to the incomparable amount of work the prisoners did, so prisoners looked like walking skeletons and a number died of starvation every day. It is said that there were no rats in the prisons because if one were found, it would immediately be caught and eaten by a prisoner as their only source of protein. Kim Yong describes the hunger that he experienced at his camp:

There were threats and dangers everywhere, but our worst enemy was hunger...Miners were so weak that it took them an hour to do the work that would have taken a normal person 10 minutes...In the camp area there was farmland irrigated by oxen, which were cared for by outside contract laborers. When they passed by the camp on the ox carts, the famished prisoners would go after the animal dung to dig out undigested corn kernels. Anything that moved was eaten—grasshoppers, lice....anything and everything in order to survive.<sup>52</sup>

In Camp No. 14, where Kim Yong served his sentence, the only proper bathroom facilities available were the buckets placed in small rooms that contained around 60 people each, and the only way for prisoners to clean themselves was to stand in the occasional rain. In addition, prisoners had to bear the foul name-calling and beatings of officers, who were merciless to them. Suicide attempters were severely punished, usually beaten or their food rations cut down in half, which accelerated their growing starvation. Some prisoners were “re-educated” before their release, and they attended prison school to learn about the Kim family’s

triumphs and their greatness. Immediately before their release, prisoners were required to sign a contract stating that they would not report their experiences at the concentration camps. Obviously, the North Korean police forces were too unorganized to monitor such contracts. The claims of the government that such camps did not exist were disproven by the testimonies of survivors and defectors such as Kim Yong, and the country's secret was revealed to the entire world.

### Nuclear Arms

On October 8, 2006, North Korea launched its first nuclear test, causing a tremor of 4.2 magnitude on the Korean Peninsula. This event confirmed the speculation over the existence of nuclear weapons in the hermit kingdom and added North Korea to the list of nuclear weapon states as the 8th member.<sup>53</sup> The test was the outcome of four decades of secret work for North Korea; even during the toughest times of the nation's history when civilians were dying of starvation, the country's development of nuclear weapons never stopped.

North Korea's involvement with nuclear energy began at the end of the Korean War in the mid-1950s. In 1974, the country joined the International Atomic Energy Agency (IAEA), granting technical assistance for the development of peaceful nuclear energy.<sup>54</sup> Also, it signed the Nuclear Nonproliferation Treaty (NPT) in 1985, which required North Korea to negotiate a safeguards agreement with the IAEA regarding the nuclear materials in its possession. Over several years, the hermit kingdom had built a 5-megawatt and 50-megawatt reactor. North Korea's nuclear activities had received little attention until 1989, when satellite images divulged what seemed to be a nuclear reprocessing plant and when the Central Intelligence Agency (CIA) came to believe that North Korea had unloaded plutonium from its 50-MW reactor.<sup>55</sup> North Korea naturally denied the existence of any nuclear program on its grounds. In 1992, the safeguards agreement was finally signed seven years after North Korea's admission to the

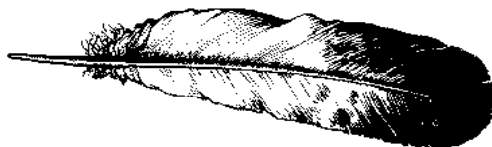
IAEA, and inspections on the facilities followed. In order to hide any evidence of nuclear proliferation, the 5-MW reactor had been shut down for around 70 to 100 days three years before the inspections, during which 13 kilograms of weapons-grade plutonium were removed. When the IAEA demanded a special inspection and access to two suspicious sites in 1993, North Korea announced its withdrawal from the NPT.<sup>57</sup> The international community grew concerned at this action, and bilateral negotiations arose between the United States and North Korea. The result was the Geneva Agreed Framework in 1994, which created the Korean Peninsula Energy Development Organization (KEDO) led by the United States. KEDO would provide the country 500,000 tons of oil annually for free and two light-water reactors that would be used for peaceful purposes; in return, all nuclear programs in North Korea would be discontinued.<sup>58</sup> The agreement, however, did not last very long. In 2002, North Korea's secret uranium enrichment program was revealed, which abruptly ended the supply of oil by the United States, and all monitors placed in North Korea under the Agreed Framework were expelled in retaliation.

The first three-way talks occurred in 2003. China, which had always supported its Communist neighbor, firmly opposed the nuclear proliferation of North Korea and took the role of intermediary between North Korea and the United States. No agreements were made due to North Korea's complaint that the United States delegation merely repeatedly demanded the dismantlement of its nuclear program.<sup>59</sup> Several additional multiple-party talks were held but were rarely successful due to continued disagreement and growing tensions between North Korea and the United States. President George W. Bush and his administration initially showed no willingness to negotiate with the country he "loathed" and labeled as part of the "axis of evil."<sup>60</sup> Eventually, an agreement was made between the two nations, much like the 1994 agreement, which had many goals, including the dismantlement of the plutonium reactors, removal of North Korea from the State Department's list of state sponsors of terrorism, the re-admission of United Nations nuclear inspectors, and creating an effort for a peace agreement to end the Korean War.<sup>61</sup>

The nuclear tests, however, have continued. On April 5, 2009, North Korea tested a long-range missile, and on May 25, it carried out an underground nuclear test.<sup>62</sup> North Korea purposely selected the United States' Memorial Day to catch its Western enemy's attention. The recent rocket launches were meant to help suppress the rumors regarding Kim's failing health and the stroke from which he suffered and to reemphasize his firm control of North Korea. The country's supply of nuclear weapons has provided economic gains for North Korea, but its main purpose was to bring fear to the international community and to declare itself a strong, superior power.

#### Future and Conclusion

The future remains unclear for North Korea. Many analysts have repeatedly claimed that North Korea would collapse due to its instability, but the country has proved these speculations are incorrect. Kim Jong Il's failing health is visible, and the topic of succession is the main issue discussed among the people today. The most likely candidate, watchers believe, is Kim Jong Un, the current leader's third son. Thought to be the smartest of Kim Jong Il's three sons, Kim Jong Un lacks experience and will need help from the top officials and family members. Interestingly, the potential successor represents a more cosmopolitan type of leadership that has not been seen in North Korea's history.<sup>63</sup> There is a possibility that North Korea may experience unprecedented change within itself through its new leader, ending the decades of isolation enforced by his father and grandfather, and seeking ways to reform the country.



## Notes

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TRANSFORMATION OF THE HUMAN CONSCIOUSNESS:  
THE ORIGINS OF SOCIALIST REALISM  
IN THE SOVIET UNION

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Abstract

The Soviet Union endorsed Socialist Realism as its official artistic style in 1932. This style used depictions of workers, factories and agriculture to idealize the Soviet State, essentially turning the arts into a form of government propaganda. While the adoption of Socialist Realism as artistic policy is frequently traced to Joseph Stalin's rise to political preeminence after 1928 and his solidification of power from 1932 to 1936, the true origins of Socialist Realism can be found earlier.

This paper seeks to trace the formation of Socialist Realism as an artistic policy and to demonstrate the continuity in official attitudes toward art from 1917 through 1932. It finds the policy's origins in state sponsorship of propaganda during the Russian Civil War (c.a. 1918-1921), the constant ideological commitment of Bolshevik officials to the use of art for social benefit, and the institution of harsh censorship throughout the 1920s. Socialist Realism did not emerge from Stalin's dictatorship. Rather, it was

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the culmination of developments that had occurred in Soviet artistic policy since the Bolsheviks' rise to power.

## Introduction

“Comrade Stalin has called our writers ‘engineers of the human soul,’” said Soviet culture boss Andrei Zhdanov at the 1934 First All-Union Congress of Soviet Writers. “What does this mean? What obligations does this title impose on us?”<sup>1</sup>

Zhdanov’s words illuminate the attitudes and expectations underlying the artistic doctrine known as Socialist Realism. This doctrine became an official part of Soviet cultural policy in 1932, and would remain in place for decades after. Mandating that artists must depict reality ‘in its revolutionary development,’<sup>2</sup> it imposed aesthetic and ideological uniformity on art. The doctrine was not a written law or document, but was rather an orthodoxy that formed around the state’s belief that art should be realistic in style and propagandistic in intent. A series of speeches and proclamations from prominent figures such as Stalin and Zhdanov form the core of the doctrine. The main directive Zhdanov issued was to “depict reality in its revolutionary development,”<sup>3</sup> focusing content on the transformation of the Soviet state into the ideal Communist society. In 1932, Stalin stated, “[t]he artist ought to show life truthfully. And if he shows it truthfully, he cannot fail to show it moving to socialism. This is and will be socialist realism.”<sup>4</sup> The imperative to depict life ‘truthfully’ was intertwined with the imperative to glorify socialism and the State. The Socialist Realist doctrine rested upon the expectation that artists would align their work with the interests of the government.

A substantial body of historical work portrays this artistic policy as the product of Joseph Stalin’s totalitarian state. Sheila Fitzpatrick, one of the most prominent cultural historians of the Soviet Union, argues that the State had a moderate and tolerant attitude toward artists until the rise of Stalin. Fitzpatrick finds that literary policy prior to 1928, “was soft, insofar as it existed at

all”<sup>5</sup> and then notes that State tolerance “ended abruptly”<sup>6</sup> under Stalin’s auspices. Fitzpatrick identifies an abrupt policy reversal in 1928 and portrays artistic oppression as a byproduct of Stalin’s desire to solidify his power. Such an approach to Soviet cultural policy interprets Socialist Realism as the result of a single leader’s ambitions.

This paper argues that Socialist Realism was not, fundamentally, a Stalinist doctrine. Rather, it argues that Socialist Realism was the logical continuation of the actions and values of the early Bolshevik state. Prior to Stalin’s political hegemony in the 1930s, the core ideas of Socialist Realism were already in place. While Stalin did officially implement the policy, the concept of controlling artists and using them to serve the Soviet people was a part of Bolshevik mindset and practice from the very beginning of the regime. Top officials such as Lenin and Trotsky spoke of art as a tool for both educating the masses and buttressing the State. Several left-wing artists themselves contributed to this vision by calling for more art oriented toward social improvement and more government intervention in art. While the chaos of the Civil War, which lasted from 1918 to 1921, prevented the government from systematically oppressing artists, the government did commission propagandistic art in the hope of uplifting and educating its people. The propaganda projects the state sponsored were an early example of the government’s vision of “appropriate” socialist art. Directly after the close of the Civil War, the State began to implement that vision by putting an extensive censorship apparatus into place. From 1922 onward, documents detailing censorship operations demonstrate that the Bolshevik (Communist) State sought to control artists for the protection and benefit of the proletarian masses. Censors evaluated workers’ responses to art in order to determine whether certain works should be allowed, providing a precedent for Socialist Realism’s prioritization of the impact of art on the proletariat. After 1928, the state controlled artists through a series of artistic organizations and unions. The final result of these actions was that by the time Socialist Realism became policy in 1932, the foundational components of the



doctrine had long since been in place: censorship and control, for the sake of the people, was already reality. Socialist Realism possessed a strong sequence of historical precedents, and was not the unique policy of Stalin's totalitarian regime.

### Foundations of Socialist Realism in the Early Bolshevik Regime

The ideological foundations of government control over artists existed from the very beginning of the Bolshevik regime. Lenin was suspicious of the notion of artistic freedom, noting in a letter to German Communist Clara Zetkin, "every artist...claims as his proper right the liberty to work freely according to his idea, whether it is any good or not. There you have the ferment, the experiment, the chaos."<sup>7</sup> Lenin presents the concept of artistic freedom as an excuse for mediocrity and closely associates "experiment" with "chaos," implying that the creative process is analogous to social disorder. He believes that the role of the Communist is to "guide this development consciously, clearly, and to shape and determine its results."<sup>8</sup> To Lenin, artistic liberty is fundamentally opposed to social stability, while artistic control can serve the purpose of statecraft. Trotsky shares this view of art as a powerful, but dangerous, tool. In his 1923 essay *Literature and Revolution*, he refers to "the plow of the new art,"<sup>9</sup> comparing art to a productive implement that leads to a quantifiable social gain. This metaphor implies that the artist will be akin to the farm worker, engaging in a task that requires neither creativity nor experimentation. Trotsky also issues judgments regarding style, claiming that "[t]he Revolution cannot live together with mysticism. Nor can the Revolution live together with romanticism..."<sup>10</sup> Although *Literature and Revolution* contains no specific policy recommendations, it demonstrates a presupposition that the government should determine artistic direction; this attitude provides a clear ideological precedent for the 1932 Socialist Realist doctrine.

The State's extensive sponsorship of art during the Civil War was its first practical implementation of the concepts of So-

cialist Realism, as first articulated by Trotsky and Lenin. The large quantity of propagandistic art that the government commissioned demonstrates its profound faith in the power of art to both educate the population and strengthen the State. The theater was the area in which the Bolsheviks were most involved. The 1919 First National Conference on Extra-Mural Education spoke of theater as an educational and revolutionary force,<sup>11</sup> and by October 1920, the Red Army had organized 1,415 theaters and 250 cinemas to “educate” the population about the revolution.<sup>12</sup> The government instituted a 500 percent tax on private theater profits in 1918, and then officially nationalized the theater in 1919.<sup>13</sup> As private theaters closed in Petrograd, the Commissariat of Enlightenment sent various state-approved theater groups into the old performance spaces.<sup>14</sup> One of the most iconic works the Bolsheviks sponsored was the 1920 reenactment of the storming of the winter palace in Petrograd, in which the director of the spectacle, Nikolay Yevreinov, used 8,000 actors and counted 100,000 in the audience.<sup>15</sup> Members of the Red Army, in addition to professional actors, worked in the play. The dramatized reenactment included “capitalists push[ing] sacks of money with their bellies toward Kerensky’s throne,” mock combat between Red Army and White Army forces, and a rousing rendition of the national anthem. Yevreinov noted that “the man of the theater possessing social ideals” would see the spectacle as “a revelation, pregnant with suggestion towards that theater of the future which shall fully answer the need of spiritual social service.”<sup>16</sup> Yevreinov’s concept of the theater as “social service” is an early articulation of the idea that would become fundamental to Socialist Realism.<sup>17</sup> He associates the interests of the government with those of society: the play, which was a celebration of the new State, is now conceptualized as a celebration of the people.

Government sponsorship of art was by no means confined to the theater. In 1918 Lenin approached Anatoly Lunacharsky, head of the culturally and educationally focused Commissariat of Enlightenment, to request a series of statues of revolutionary figures,<sup>18</sup> each of which was intended to inspire a sense of awe in the Communist regime. Lunacharsky ultimately produced a list of 67 socialist heroes for the state to monumentalize.<sup>19</sup> In the field

of propagandistic poster design, the state commissioned artists such as Aleksandr Rodchenko to create new styles to support the revolution.<sup>20</sup> Various artistic groups competed for a commission to design decorations for Petrograd's 1919 May Day celebration of the revolution.<sup>21</sup> The government's propagandistic commissions demonstrate a clear vision for the use of art in the new regime. Art was a public utility that could educate the people and thereby support the State.

While the government attempted to use art for social benefit during the Civil War period, it did not actively repress artists. Practical restraints prevented the government from translating the oppressive will of Lenin and Trotsky into reality. From 1917 to 1921, the government was embroiled in a bloody civil war that ultimately resulted in the death of millions.<sup>22</sup> The resources and administrative oversight necessary to suppress dissident artists had to be allocated to the state's primary goal: winning the war. Art was important, but not a priority. Symptomatically, when the government moved from Petrograd to Moscow in 1921, the Commissariat of Enlightenment was one of the last departments to move.<sup>23</sup> When it did at last move, it took several months to do so, and during that time, branches operated semi-autonomously in both cities.<sup>24</sup> Centralizing and coordinating policy would have been nearly impossible, given the severe logistical constraints. Furthermore, the fact that the Commissariat of Enlightenment was one of the last departments to move demonstrates its relative unimportance to the State during the Civil War. Defeating the White Army took precedence over cultural and artistic policy.

The seeds of Socialist Realism were thus present both in 1917 and through the close of the Civil War in 1921. During the earliest years of the Bolshevik regime, the ideological impetus to use art for a social purpose was strong. Although the government was not able to take significant steps toward oppressing artists during this period, its sponsorship of art expressed a clear faith in the power of art to educate the people and legitimize its own existence.

## Radicalization of the Artists: 1917-1929

The actions of artists themselves also provided a substantial precedent for Socialist Realism. Many left-wing artists and culturati called for greater government intervention in art, as they believed this intervention would further the goals of the revolution. Revolutionary artists were intolerant of approaches other than their own and accused one another of 'counter-revolutionary' or 'bourgeois' tendencies. The overall result was the repeated validation of government oppression and intervention in art and the strengthening of the core values of Socialist Realism.

Prominent members of the radical cultural intelligentsia believed that the government should become more actively involved in art in order to benefit the masses. Dramaturge Adrian Piotrovsky, in a 1920 article entitled "Dictatorship," contended that the Bolsheviks should have a "repressive policy in the arts." Piotrovsky noted, "either the proletariat will make art, or it will be made by petty shopkeepers." In response to the dangerous influence of the "superficially educated," the government must "show another way by force."<sup>25</sup> Piotrovsky's article provides an early example of support by artists of repressive government interference for the benefit of the proletariat. Proletarian culture movements of the pre-Stalinist regime echoed Piotrovsky's beliefs. The Proletkult group formed in 1917 to promote the art of the working class over 'bourgeois' art. The group asked the government for the authority to independently create proletarian revolution in the cultural sphere, but by 1919 Lenin had grown weary of the group's request for autonomous power and withdrew his support.<sup>26</sup> The concept of totalitarian control over the arts did not, therefore, originate with Stalin, and was not even unique to top Bolsheviks such as Lenin and Trotsky. Although not all artists supported increased government intervention, there was certainly a group of artists in the early Soviet Union who provided a precedent for Socialist Realism. As a result of the influence of artistic radicals, relatively moderate artists continually faced attacks from the far left. Bolshevik supporter and Futurist poet Vladimir Mayakovsky

created a journal called *Left Front of Literature* [LEF] in 1923, but militant proletarian groups called the magazine 'bourgeois'. A group of proletariat-supporting writers then created *On Guard*, a competing magazine that claimed revolutionary content was more important than literary form. Facing mounting criticism, LEF later dissolved.<sup>27</sup> The fate of LEF was in many ways emblematic of the pressures artists in the early Bolshevik regime faced. Even a poet as pro-revolution as Mayakovsky, who titled his journal "Left Front," could receive heavy criticism for being 'bourgeois'. According to Proletkult, movements such as Futurism focused on aesthetic form rather than uplifting content, rendering them unsuitable for a new proletariat culture.<sup>28</sup> Proletkult viewed artistic unsuitability as a sign of political deviance, a viewpoint that cast artists such as Mayakovsky as enemies of the State. The actions of left-wing artists themselves thus provided a precedent for the monolithic Socialist Realist doctrine. The concept of artistic control implemented by the State, for the good of the people, was common to both top Bolshevik officials and radical artists.

The foregoing reflects how the core idea of Socialist Realism did not originate in the 1930s and was not fundamentally Stalinist. Rather, it was a part of the Bolshevik revolutionary attitude, and had been present at all levels of discourse since the very beginning of the regime.

#### Apparatus of Oppression: 1922-1928

The conclusion of the Civil War afforded the government the time and resources with which to develop an extensive censorship apparatus. This apparatus provided the State with the organizational infrastructure it could use to further the goals central to Socialist Realism. From 1922 on, the apparatus worked to centralize its control over artistic production and eliminate private publishing. Using this control, censors attempted to reform artistic expression to maximize social good. This situation provides a strong precedent for Socialist Realism's control over

art for the supposed benefit of the people. Ideological commitment combined with government resources to help create the first practical example of Socialist Realism in action. It is significant that this apparatus expanded concurrently with Lenin's decline and the power struggle following his death in 1924. Stalin was not the central authority until several years following Lenin's death,<sup>29</sup> which indicates that censorship and oppression increased under non-Stalinist auspices.

The first step toward control was the development of a centralized bureaucratic structure that extensively censored works. While Gosizdat, the state publishing house, had served as an ad hoc censorship agency during the Civil War,<sup>30</sup> in 1922, a new department became responsible for censorship: Glavlit.<sup>31</sup> The fact that censorship received its own department merely one year after the conclusion of the Civil War indicates its importance to the government. In the absence of the practical and logistical constraints of war, the State could implement Trotsky and Lenin's ideological will. Control was centralized and extensive, since works could face two rounds of censorship, as both a regional censor and the central office frequently reviewed the same titles.<sup>32</sup> Glavlit exercised substantial power over the literary world. Of the 497 works Glavlit reviewed in the 3rd quarter of 1923, 20 percent faced cuts or changes and 6 percent were banned.<sup>33</sup> A 1923 State decree created another department called Glavrepertkom to oversee art, cinema, and music. The decree mandated that institutions register lists of their workers and programs with Glavrepertkom, and ordered all texts to be submitted for censorship in their final form,<sup>34</sup> reflecting how centralization of the artistic world began before Stalin's rise. Glavlit further increased its control in a mid-1920s campaign to consolidate the printing industry under its supervision. The department began to limit presses to certain predefined genres, forbidding presses to publish works outside of their assigned scope.<sup>35</sup> After 1926, the number of private presses dropped sharply,<sup>36</sup> and although private presses printed 23 percent of works in 1925, by 1926 they printed only 10 percent.<sup>37</sup> The establishment of Glavlit was the first step toward making the Bolshevik leaders' dream of control over artists a practical reality.

The goals and expectations for 1920s censorship provided a significant precedent for Zhdanov's 1934 exhortation for writers to lead a "transformation of the human consciousness."<sup>38</sup> Censors used the new censorship infrastructure to reshape artistic expression for what they believed was in the didactic interest of the masses. In one report to Orgburo, a department that oversaw personnel issues and policy implementation,<sup>39</sup> Glavlit head Lebedev-Polyansky contended that Glavlit censorship had a "pedagogical bias," making its decisions based on the educational value a text might yield to workers.<sup>40</sup> In the same report, Lebedev-Polyansky asserted that Glavlit suppressed "the flow of vulgar literature" but allowed certain works "of a light genre which help spread Soviet influence to the broad philistine masses."<sup>41</sup> While Lebedev-Polyansky clearly disapproved of the 'light' literature, he felt that the social benefit it brought overruled all other considerations. His judgment of 'vulgar' literature also demonstrates that censorship was used to direct public tastes, not just to conceal State secrets. One 1928 Glavlit report counts the pages of 'worthless reading' published in the past year: 3,607,730.<sup>42</sup> Another Glavlit report contended, "[p]etty-bourgeois and low-brow tastes, the sentimental, philistine and erotic novel, adventures, ridiculous science fiction, eroticism and boulevard tastes—such are the main forms of belles-lettres production by private presses."<sup>43</sup> Defending the masses against their own poor taste, for their own welfare, emerged as a central goal for Glavlit. Glavlit reported to Politburo, the executive branch of the Communist Party, which also served as the Soviet Union's most powerful final censorship authority and displayed an attitude similar to that of Glavlit. The State's vision of an "appropriate" culture for the proletariat served as an important factor in deciding which works were to be permitted. In 1929, the Agitation and Propaganda Committee (Agitprop) wrote a report to Politburo speaking against Mikhail Bulgakov's play *Flight*, contending that to permit the production of the play "would only make it harder to bring Soviet theater closer to the worker-audience."<sup>44</sup> Once more the government's vision of proletarian social benefit proved a crucial consideration. When Zhdanov spoke in 1934 of the "education of the working people in the spirit of Socialism,"<sup>45</sup> he was really

articulating the policy that the government had implemented a decade before. Glavlit had transformed the Civil War-era intent of artists and Bolsheviks into a system of oppression and control.

One of the most important aspects of Socialist Realism was its concern with mass reaction to art. The consideration of workers' and factory representatives' opinions during the censorship process indicates that the government strongly considered this factor prior to the solidification of Stalin's power in the 1930s. Not only was censorship implemented for the benefit of the proletariat, it was implemented by the proletariat. Agitprop member S. Krylov's correspondence regarding Mikhail Levidov's play *Conspiracy of Equals* refers to "responsible worker Communists—thirty to thirty-five people" invited to a viewing of the play.<sup>46</sup> Though the final decision itself was intended to be secret and made by a central authority, the reactions and impressions of workers would inform that decision. Other documents confirm the importance of worker response to the censorship process. In 1931, out-of-favor writer Eugeny Zamyatin wrote to Stalin protesting the 1928 censorship of his play *Attila* and asking for permission to emigrate. In his own support, Zamyatin noted that the play had already been read at a session of the Bolshoi Theater with "representatives from eighteen Leningrad factories" in attendance.<sup>47</sup> Zamyatin quoted the responses of various factory representatives in the letter, including the Volodarsky Factory representative's impression that the play "treats the theme of class struggle in ancient times...in [a manner] in keeping with modern times."<sup>48</sup> Zamyatin's use of worker response as self-defense indicates a desperate faith in the power of proletariat opinion to redeem him.<sup>49</sup> The workers are the jury to Stalin's judge, a source of limited authority in the process of Soviet censorship. The prioritization of the proletariat was a longstanding theme in the Soviet Union's control over artists.

Politburo's extensive involvement in the censorship process placed artistic expression under the complete control of the government. Documents regarding the operations of Politburo demonstrate the extent of the centralization of censorship and control over printing and the arts in pre-Stalinist Russia. One



1926 Politburo resolution on B. A. Pilnyak's "Tale of the Unextinguished Moon" calls the work a "malicious, slanderous, and counterrevolutionary attack" against the Party.<sup>50</sup> Politburo banned all presses from reprinting the story, recommended the seizure of the issues of the journal in which the story appeared, and instructed the state publishing house to examine the remainder of Pilnyak's stories for "unacceptable" political content. Politburo's ability to command such far-reaching consequences suggests that the censorship apparatus was highly developed and coordinated prior to the rise of Stalin. Politburo served as an absolute authority and refused to enter into negotiation or accept appeals. When Politburo considered banning the play *Conspiracy of Equals*, director Alexander Tairov wrote to Politburo member Mikhail Tomsky to testify to the "moral importance of this matter of survival for our theater."<sup>51</sup> By way of response, Tomsky was outraged by the breach of Politburo confidentiality. In an irate memorandum to Molotov he asked, "Isn't it time to put an end to the shameless chatter about the Politburo and its resolutions? How did Tairov find out about the PB resolutions? Why does he need to know this? Can't you instruct someone to investigate?"<sup>52</sup> The involvement of the top echelons of the Soviet State in artistic matters signaled the demise of any limited power the cultural intelligentsia had once enjoyed. Tairov's letter demonstrates a presumption that he can influence the censorship decisions of the government, a presumption that is clearly no longer valid in 1927.

Artistic policy had escalated in importance, as it could now become a State secret. The final Politburo resolution "found it unnecessary to permit the performance of *Conspiracy of Equals*" and asked the Party's Central Control Commission to "investigate those guilty of disclosing the Politburo's resolution on *Conspiracy of Equals*."<sup>53</sup> The language of the resolution, in which Politburo "found it unnecessary to permit" a work, also demonstrates a belief that artistic expression is a privilege or favor granted by the state. The pre-Stalinist government had already managed to erode the foundations of artistic freedom. Glavreperkom's original decision to allow the play also convinced Politburo that

the censorship apparatus needed to become more stringent. The resolution mandated the replacement of current Glavrepertkom members with stricter “individuals who can ensure the proper work of Glavrepertkom.”<sup>54</sup> As testament to the increase in centralized control, the secret police (OGPU) paid Glavlit officials’ salaries starting in the late 1920s.<sup>55</sup> One account of the department also reports that the censors wore OGPU uniforms.<sup>56</sup> Politburo’s pervasive interference in artistic affairs provided yet another limitation on artistic freedom. Secrecy, centralization, and control increased over the course of the decade. Lenin’s dream of restricting “the ferment, the experiment, the chaos” had become practical reality.

The effect of these developments was to make the artist into the tool of the State. Artistic freedom was virtually nonexistent by this time, as works now only existed by virtue of Politburo and Glavlit’s permission. In this manner, Socialist Realism’s unification of artist with State was in place long before 1932.

#### Consolidation of Control: 1928-1934

From 1928 to 1934, the state organized artists into a series of groups and unions under its control. These groups provided the means through which the state introduced Socialist Realism in 1932. They represent the culmination of the process of control and oppression that began in 1917.

In 1928, the Soviet Union granted the Russian Association of Proletarian Writers (RAPP) and Russian Association of Proletarian Musicians (RAPM) broad authority over the arts. With State support, RAPP pressured LEF to dissolve, gained power over the All-Russian Union of Peasant Writers, and lead campaigns against artists such as Zamyatin and Bulgakov.<sup>57</sup> Sheila Fitzpatrick notes that Politburo began to appoint RAPP members to the editorial boards of non-RAPP journals and grant greater consideration to the opinions of the RAPP group.<sup>58</sup> She interprets the party’s decision to grant RAPP special powers as a part of the radicalization surrounding Stalin’s rise to power. She identifies RAPP’s new-

found authority with Stalin's "class war"<sup>59</sup> that included the 1927 Five-Year Plan for the economy, the 1928 Shakhty Trials against engineers for "wrecking" factory equipment, and the movement toward immediate collectivization.<sup>60</sup> According to Fitzpatrick, these decisions were part of a "cultural revolution" that Stalin initiated in order to outmaneuver his political opponents.<sup>61</sup> While Fitzpatrick is correct in identifying the "class war" toward the end of the decade as an immediate motivation for the empowerment of RAPP, the State's actions were in fact completely aligned with developments throughout the 1920s.<sup>62</sup> Viewed in the context of Glavlit and Politburo's escalating intervention, it is clear that there was no radical break or "revolution" in cultural policy following Stalin's rise. There was merely an intensification of the preexisting trend toward control and centralization.

Although RAPP was technically a non-governmental organization, the State continued to heavily supervise the arts. In 1929, Commissar of Enlightenment Anatoly Lunacharsky resigned under rising pressure from radical elements in the Party and was rapidly replaced by the more intolerant Zhdanov.<sup>63</sup> The OGPU also remained highly involved in the arts. A 1931 secret police report celebrated the "rout of counterrevolutionary organizations of the intelligentsia" but noted that individual members of the intelligentsia remained "counterrevolutionary."<sup>64</sup> This report illustrates both the government's sense of triumph at successful suppression of the cultural intelligentsia and its desire to further consolidate control. It predates the formation of the Union of Soviet Writers by barely one year. The report also lists the attitudes and "creative moods of right-wing film directors," such as that of a Leningrad director, Beresnev: "I don't understand politics in art, I hate all that. Just think what themes we have in cinema and art—tractor building, diesel building, and muck like that."<sup>65</sup> Beresnev's criticism of the predominance of agricultural and industrial themes in art marked him as a subversive, indicating both the prevalence of propagandistic art prior to 1932 and the controlling attitude of the state. Politburo also continued to interfere in the arts. Though Politburo chose to appoint many RAPP-connected artists to the boards of journals, it retained the power to make these editorial

appointments without RAPP input, thereby continuing the control it exercised throughout the 1920s. The State also began awarding its own artistic ranks and titles during this period,<sup>66</sup> further underscoring its authority over RAPP. While RAPP proved a convenient means of organizing the artistic milieu, the State never lessened its grip on the arts. The overall trend of rising government control continued from 1928 through the 1930s.

In 1932 the State created the Union of Soviet Writers, the body that served as the first official Socialist Realist organization. The 1932 Politburo resolution, "On restructuring literary and arts organizations" removed power from RAPP and proposed a new national organization to replace it.<sup>67</sup> A Union of Architects and a Union of Artists were also created alongside the Union of Soviet Writers.<sup>68</sup> Politburo affirmed that, "major quantitative and qualitative growth has been achieved in literature and art," but feared that RAPP alienated some pro-Soviet artists through its aggressive attitude. To this end, Politburo aimed to "unite all writers [and artists] who support the platform of Soviet power,"<sup>69</sup> a decision that promoted increased centralization of control over the arts and ultimately brought Socialist Realism into being. At a 1932 meeting at Soviet cultural leader Maxim Gorky's house, Stalin issued his famous statement about how "the artist ought to show life truthfully."<sup>70</sup> This statement was the founding principle of the Union,<sup>71</sup> of which Gorky was the head. Support of the State and portrayal of Soviet triumph formed the core principles of both the Union and Socialist Realism. P. Iudin, a leader of the 1932 Union of Soviet Writers, proclaimed in a speech, "[i]n their works, with their books and at their first congress, Soviet writers affirm openly before all the world that they are proponents of the communist worldview, that they are firmly behind the positions of Soviet power..."<sup>72</sup> Iudin presents the unification of artist and State as a triumph for both parties and reduces the artist to one more voice in a supportive chorus for the State. This development occurred under the auspices of Stalin but was by no means purely Stalinist. The Union of Soviet Writers was one more step in the escalation of control the government had initiated, and represented the formalization of the propagandistic intent of early Bolshevik art.

In 1934, Politburo replaced the Union of Soviet Writers within the All-Union Congress of Soviet Writers, as the former grew paralyzed by internal division and bickering,<sup>73</sup> but retained the focus on Socialist Realism in the new organization. Since the aesthetic was still inherently political, the artist was still the agent of the government. At the end of his 1934 speech to the Congress, Zhdanov exhorted, “Be as active as you can in organizing the transformation of the human consciousness in the spirit of Socialism!”<sup>74</sup> Zhdanov contended that the job of the artist was to reshape the people to suit the vision of the government, ostensibly for the benefit of the people themselves. The 1934 meeting of the Congress reiterated the basic principles of the 1932 Union and Stalin’s declaration on the nature of Socialist Realism. Ideology and policy that had existed from 1917 through 1932 became orthodoxy. Socialist Realism had officially arrived.

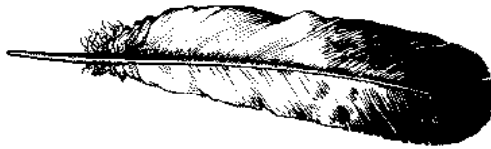
## Conclusion

From the beginning of Bolshevik rule, top officials had viewed art as the tool of the revolution. The events from 1917 to 1932 are thus best viewed as manifestations of this belief; the logical consequences of a philosophy of artistic control. This thesis is part of a broader historiographical trend of identifying continuity throughout the stages of Soviet rule. In *Lenin, Stalin, and Hitler*, an analysis of early 20th-century dictatorship, historian Robert Gellately argues that the violence of Lenin’s regime provided a direct predecessor for the brutality of Stalin’s state. Gellately vigorously contests the idea that Stalin “polluted”<sup>75</sup> Lenin’s ideals, proposing instead that “Stalin was Lenin’s logical successor.”<sup>76</sup> Gellately finds the source of Stalin’s policy of violence in the ideology and early actions of the Bolshevik state.

Likewise, I reject Sheila Fitzpatrick’s notion of a Stalinist “class war” that ended prior respect for freedom in the arts. Socialist Realism was the result of a deeply-held belief in the need to use art to reshape society into a “better” State for the workers. Under

Lenin's rule, the government began wide-scale propaganda projects to influence the masses, and an invasive censorship apparatus began to form. The expansion and centralization of power over artists throughout the 1920s served as an elaboration of Lenin and Trotsky's vision of art as a tool of the State. Meanwhile, censors and Politburo members repeatedly spoke of the educational value of art and considered proletarian response of utmost importance to a work's value. By the time Stalin first uttered the words "socialist realism" at Maxim Gorky's house,<sup>77</sup> the infrastructure and ideology of oppression were already in place. Socialist Realism should not, therefore, be primarily identified with Stalin. It is fundamentally linked to the words and actions of government officials and left-wing artists who shared a common goal of creating an appropriate art form for the new State.

The development of Socialist Realism relied upon the participation and contributions of countless individuals in Soviet Russia. To grant Stalin primary responsibility denies the contributions numerous artists, censors and ideologues made to the policy. This episode in Soviet history serves as a reminder of how oppression develops: not by the will of one, but through the actions of many.



- <sup>1</sup> Andrei Zhdanov, "From Speech at the First All-Union Congress of Soviet Writers 1934" in Modernism: An Anthology of Sources and Documents ed. Vassiliki Kolocotroni, Jane Goldman, Olga Taxidou (Chicago: The University of Chicago Press, 1998) p. 525
- <sup>2</sup> Ibid., p. 525
- <sup>3</sup> Ibid., p. 525
- <sup>4</sup> David Hoffman, Stalinist Values: The Cultural Norms of Soviet Modernity (1917-1941) (Ithaca: Cornell University Press, 2003) p. 161
- <sup>5</sup> Sheila Fitzpatrick, The Cultural Front: Power and Culture in Revolutionary Russia (Ithaca: Cornell University Press, 1992) p. 105
- <sup>6</sup> Ibid., p. 112
- <sup>7</sup> Donald Treadgold, Twentieth Century Russia: Seventh Edition (Boulder: Westview Press, 1990) p. 222
- <sup>8</sup> Ibid., p. 222
- <sup>9</sup> Leon Trotsky, "Literature and Revolution" in Modernism: An Anthology of Sources and Documents p. 229
- <sup>10</sup> Ibid., p. 230
- <sup>11</sup> Katerina Clark, Petersburg: Crucible of Cultural Revolution (Cambridge: Harvard University Press, 1998) p. 108
- <sup>12</sup> Ibid., p. 104
- <sup>13</sup> Ibid., p. 108
- <sup>14</sup> Ibid., p. 118
- <sup>15</sup> Nikolay Yevreinov, "A Member of the Audience: Storming the Winter Palace" in Modernism: An Anthology of Sources and Documents, p. 224
- <sup>16</sup> Ibid., p. 225
- <sup>17</sup> William J. Leatherbarrow and Derek Offord, A Documentary History of Russian Thought: from the Enlightenment to Marxism (New York: Ardis, 1987) pp. 136-148, 199-227

My research suggests that the culture and philosophy of the 19th-century liberal intelligentsia may have also have contributed to the ideology behind Socialist Realism. The concept of the art as an instrument of social improvement appears throughout the writings of key members of this liberal intelligentsia. For example, writer and prominent socialist Alexander Herzen noted that the role of the artist was to utter "what exists in the dim consciousness of the masses," while the author and philosopher Nikolay Cherneshevsky spoke of

“the direct duty” authors felt to speak for their country. An examination of the influence of the 19th-century intelligentsia is not within the scope of this paper, and is a topic for later exploration.

<sup>18</sup> Victoria E. Bonnell, Iconography of Power: Soviet Political Posters under Lenin and Stalin (Berkeley: University of California Press, 1999) pp. 21-22

<sup>19</sup> *Ibid.*, p. 138

<sup>20</sup> Stephen J. Eskilson, Graphic Design: A New History (New Haven: Yale University Press, 2007) pp. 204-206

<sup>21</sup> Clark, p. 103

<sup>22</sup> Robert Gellately, Lenin, Stalin, and Hitler: The Age of Social Catastrophe (New York: Alfred A. Knopf, 2007) p. 71

<sup>23</sup> Clark, p. 101

<sup>24</sup> *Ibid.*, p. 101

<sup>25</sup> *Ibid.*, p. 119

<sup>26</sup> Hoffman, pp. 38-39

<sup>27</sup> Treadgold, p. 227

<sup>28</sup> Clark, p. 103

<sup>29</sup> Gellately, p. 159

<sup>30</sup> Michael S. Fox, “Glavlit, Censorship, and the Problem of Party Policy in Cultural Affairs, 1922-8,” Soviet Studies 44, no. 6, (1992) p. 1052, [www.jstor.org/stable/152329](http://www.jstor.org/stable/152329) (accessed March 2, 2010)

<sup>31</sup> *Ibid.*, p. 1052

<sup>32</sup> *Ibid.*, pp. 1054-1055

<sup>33</sup> *Ibid.*, p. 1054

<sup>34</sup> *Ibid.*, p. 1056

<sup>35</sup> *Ibid.*, p. 1059

<sup>36</sup> Only 78 of the 1,000 presses in the Soviet Union were private, as opposed to 232 in 1923. *Ibid.*, p. 1060

<sup>37</sup> *Ibid.*, p. 1060

<sup>38</sup> Zhdanov, p. 526

<sup>39</sup> Gellately, pp. 146-148

Orgburo and Politburo were the two main committees of the Central Committee of the Communist Party. Politburo served as the executive branch and strategic head of the Party, whereas Orgburo dealt with the logistical and personnel-related issues arising from Politburo directives. The Communist Party dominated the structure of the actual ‘state’ to such an extent that the Party was the government and vice versa. The main political body of the ‘state’ was Sovnarkom, or the Council of People’s Commissars, of which Lenin was chair. For this reason,



references to the “state” and the “government” in this paper also refer to Communist Party apparati.

<sup>40</sup> P.I. Lebedev-Polyansky, “On the activities of Glavlit” in Soviet Culture and Power: A History in Documents, ed. Katerina Clark and Evgeny Dobrenko with Andrei Artizov and Oleg Naumov (New Haven: Yale University Press, 2007) p. 124

<sup>41</sup> *Ibid.*, p. 123

<sup>42</sup> Fox, p. 1061

<sup>43</sup> *Ibid.*, p. 1061

<sup>44</sup> P.M. Kerzhentsev, “Report from P.M. Kerzhentsev, Deputy Head of Agitprop TsK VKP(b), to the Politburo of the TsK VKP(b) on M.A. Bulgakov’s Flight,” in Soviet Culture and Power pp. 98-103

<sup>45</sup> Yevreinov, p. 225

<sup>46</sup> S.N. Krylov, “Letter from Deputy Chief of Agitpropotdel TsK VKP (b) to V.M. Molotov” in Soviet Culture and Power pp. 94-96

<sup>47</sup> E.I. Zamyatin, “Letter from E.I. Zamyatin to I.V. Stalin,” in Soviet Culture and Power pp. 109-110

<sup>48</sup> *Ibid.*, p. 110

<sup>49</sup> Stalin ultimately allowed Zamyatin to leave the Soviet Union. Zamyatin died in Paris in 1937.

<sup>50</sup> Politburo, “Resolution of the Politburo TsK VKP(b) on B.A. Pilnyak’s ‘Tale of the Unextinguished Moon,’” in Soviet Culture and Power: A History in Documents pp. 90-91

<sup>51</sup> A.Y. Tairov, “Letter from A.Y. Tairov to M.P. Tomsy,” in Soviet Culture and Power p. 96

<sup>52</sup> M.P. Tomsy, “Memorandum from M.P. Tomsy to V.M. Molotov,” in Soviet Culture and Power p. 97

<sup>53</sup> Politburo, “Resolution of the Politburo TsK VKP(b) on banning M. Yu. Levidov’s play Conspiracy of Equals” in Soviet Culture and Power p. 97

<sup>54</sup> *Ibid.*, p. 98

<sup>55</sup> Jeffrey Brooks, Thank You, Comrade Stalin! (Princeton: Princeton University Press, 2000) p. 4

<sup>56</sup> *Ibid.*, p. 4

<sup>57</sup> Katerina Clark and Evgeny Dobrenko, “The Demise of RAPP,” in Soviet Culture and Power p. 150

<sup>58</sup> Fitzpatrick, p. 52

<sup>59</sup> *Ibid.*, p. 115

<sup>60</sup> *Ibid.*, p. 119

<sup>61</sup> *Ibid.*, p. 113

<sup>62</sup> Fitzpatrick views the Central Committee's 1925 refusal to endorse far-left proletarian groups as evidence of the Party's initial reluctance to interfere in the arts. But while Fitzpatrick justifiably interprets the refusal as a sign of relative moderation, the Party was still extensively involved in censorship at that time.

<sup>63</sup> Irina Lunacharskaia and Kurt S. Schultz, "Why Did Commissar of Enlightenment A. V. Lunacharskii Resign?" Russian Review 51, no. 3 (1992) p. 335, [www.jstor.org/stable/131115](http://www.jstor.org/stable/131115) (accessed March 2, 2010)

<sup>64</sup> OGPU Secret Police Department, "On anti-Soviet activity among the intelligentsia in 1931," in Soviet Culture and Power pp. 130-133

<sup>65</sup> *Ibid.*, p. 131

<sup>66</sup> Brooks, p. 126

<sup>67</sup> Politburo, "On Restructuring literary and arts organizations," in Soviet Culture and Power pp. 151-152

<sup>68</sup> *Ibid.*, p. 151

<sup>69</sup> *Ibid.*, p. 152

<sup>70</sup> Simon Sebag Montefiore, Stalin: The Court of the Red Tsar (New York: Alfred A. Knopf, 2004) p. 96

<sup>71</sup> *Ibid.*, p. 95

<sup>72</sup> Brooks, p. 111

<sup>73</sup> A.E. Nikitin, "On the situation in the Union of Soviet Writers," in Soviet Culture and Power pp. 202-205

<sup>74</sup> Zhdanov, p. 526

<sup>75</sup> Gellately, p. 7

<sup>76</sup> *Ibid.*, p. 9

<sup>77</sup> Montefiore, p. 96

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