



"Strange Fruit in the Heartland: A study of the 1930 lynching in Marion, Indiana," by Lee Barich

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In 1939 Billie Holiday first performed the song "Strange Fruit". The song occupies an important place in American culture because it is generally regarded as the first popular song of protest.¹ More importantly though, the song forced listeners to relive the horrors of lynching. When Holiday began to sing "Strange Fruit", the lights were dimmed, the service took their place at the back of the room, and all focus was directed at the stage.² One can imagine that it stirred the audience. Some listeners sat in silence while at times others would walk out. "Strange Fruit" reminded Americans of the nation's racial divide and the violence committed against African Americans and other minorities. But before "Strange Fruit" was a song it was a poem written by a high school teacher in New York – Abel Meeropol. Meeropol wrote the poem, originally titled "Bitter Fruit", after viewing a photograph taken after the lynching of Thomas Shipp and Abe Smith on August 7, 1930 in Marion Indiana.³ The photograph was taken by Marion's local photographer, Lawrence Beitler. Beitler produced an image of two black men hanging from a tree while a large crowd of white citizens stood below. Some members

of the crowd are staring at the camera while others are caught smiling, paying little attention to what hangs above. The performance by Holliday brought Meeropol's poem to life as listeners were exposed to Meeropol and Holiday's distaste for racial oppression with the explicit implication of the first line: "Southern trees, bare a strange fruit". The song and poem aims their criticism at the Southern United States. But the lynchings of Thomas Shipp and Abe Smith did not take place in the Southern United States as the song suggests: rather, they took place in a small town called Marion, Indiana, just 177 miles

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¹ Dorian Lynskey, *33 Revolutions per Minute: a history of protest songs, from Billie Holiday to Green Day*, (New York: Harper Collins, 2011), 3.

² Lynskey, 2.

³ Lynskey, 6.



south-east of Chicago. And it is this that makes the lynching of Thomas Shipp and Abe Smith so interesting. The understanding of lynching against African American's is, just as "Strange Fruit" indicates, often associated with the racism of the South. This is not really surprising as roughly 82 percent of all lynchings occurred in the South.⁴ But as Marion reveals, such acts were not isolated to just one region of the country.

The Marion lynching has several interesting aspects. Not only was the town located quite far north, but before August 7, 1930 there had never been an attempt to lynch an African American in Grant County,⁵ where Marion is located. But what is most intriguing is that the lynching in Marion is the only case in American history where there has been a survivor. James Cameron was arrested along with Shipp and Smith, but for some reason, after being beaten and having already had a rope tied around his neck, he was suddenly spared. These characteristics challenge the common understanding of American lynching.

Lynchings are often linked to mob violence. By capturing the crowd of white people standing below the two men hanging, the photograph taken by Beitler suggests a certain level of communal solidarity among the white spectators. This unity among the crowd, and their apparent indifference to the crime, allows the viewer to label the Marion lynching as an act of a lawless, unfeeling and unthinking crowd. Interviews made with local citizens who witnessed the lynching, the survivor James Cameron, and newspapers reporting that night, all reveal that thousands of people gathered in front of the jailhouse and remained there until the early hours of the morning. In these retellings, the large crowd is often identified as a mob responsible for the

⁴ Nell Irvin Painter, "Who Was Lynched?" *The Nation*, (Nov 1991): 577.

⁵ James Madison, *Lynching In The Heartland* (New York: Palgrave Macmillan, 2001), 38.

deaths of Shipp and Smith. By signifying the lynching in Marion were a result of mob violence, an attempt is made to justify how the innocent townsfolk were transformed into something alien and not themselves. This idea suggests that the violence committed by the perpetrators⁶ had engulfed the whole town. By indicating that the incident was a result of lawlessness carried out by an unidentifiable mob, the Marion lynching are placed firmly within the broader historical discussion of lynching. However, there are details that counter the notion of mob violence. This paper will argue that the Marion lynching was not carried out by a lawless mob. Rather, the lynching of Shipp and Smith was planned and orchestrated by a select few. What relationship the lynchers had to one another, or what their reasons were exactly can only be speculated. However, the events to take place August 7, 1930 indicate that there was coordination among a group of men through Grant County who knew exactly what they were doing. To label the lynching in Marion as the result of mob violence is to misrepresent what actually happened that night.

What is Mob Violence?

The challenge with defining a lynch mob is largely due to its unclear treatment by academics. In the article "Rethinking Lynching: Extralegal Executions in Postbellum Louisiana", authors Jay Corzine, Huff-Corzine, and Candice Nelsen analyse cases of lynching solely in the state of Louisiana. They state that "the term lynch mob is problematic because it implies that perpetrators of lynchings were a previously unorganized collection of individuals who acted in a state of frenzied excitement; that, in effect, they were overcome

⁶ The term perpetrator will be used when discussing the individuals who lynched Shipp and Smith. This will be done to avoid confusion with the idea of a 'lynch mob'. Perpetrators is an appropriate term because it signifies the criminal act committed by these men.

by the "psychology of the mob."⁷ They go on to indicate that while studying the cases of lynching in Louisiana, only a minority of incidents seem to actually indicate the presence of a mob. Upon further analysis they claim: "More often than not, groups who carried out lynchings were well organized with recognized leaders, and their acts frequently displayed careful planning."⁸ The authors' interrogation of the term 'lynch mob' reveals significant issues with the way we generally understand lynching.

While Nelson, Corzine, and Corzine indicate the complexity behind mob violence, other authors attempt to incorporate different concepts of the mob into their work. In the article "The Influence of Political Dynamics on Southern Lynch Mob Formation and Lethality," Ryan Hagen, Kinga Makovi, and Peter Bearman make direct reference to the guidelines established by the NAACP to identify a lynch mob. The four requirements established to determine a lynching are: "(1) there must be evidence that a person was killed; (2) the person must have met death illegally; (3) a group of three or more persons must have participated in the killing; and (4) the group must have acted under the pretext of service to justice or tradition."⁹ Throughout the article, the term 'lynching' becomes synonymous with terms like 'mob violence' and 'lynch mob'. This interpretation rests on the dubious claim that three people operating constitute a mob. The fact that the NAACP developed this definition points to the interest of the African American civil rights organization, a group that was anxious not to alienate potential

⁷ Jay Corzine, Lin Huff-Corzine, and Candice Nelson, "Rethinking lynching: Extralegal executions in postbellum Louisiana," *Deviant Behavior*, Vol 17., No. 2 (April 1996): 135.

⁸ Ibid

⁹ Ryan Hagen, Kinga Makovi, and Peter Bearman, "The Influence of Political Dynamics on Southern Lynch Mob Formation and Lethality," *Social Forces*, Vol 92., No. 2 (2013), 762.

white sympathizers, with establishing how lynching would be interpreted. The NAACP, along with others in the African American community, have mobilized critical artifacts and information in order to reveal the importance of lynching in the history of American racism, but they have also helped establish lynching as an unusual, emotional and irrational act carried out by mindless groups not rational individuals.

Another lens used to examine lynching is that of collective violence. Roberta de la Roche, a sociologist, examines collective violence and its association with the act of lynching. In "Collective Violence and Social Control" she states that "'Collective Violence, then, is commonly a moralistic response to deviant behavior. And, aptly enough, it is sometimes described as "popular justice."¹⁰ From here, she distinguishes the separate categories within collective violence such as lynching, vigilantism, rioting, and terrorism. She argues that "though rioting and lynching may include some degree of planning and organization the behavior defined in this analysis as rioting and lynching is considerably more situational, spontaneous and decentralized than vigilantism or terrorism."¹¹ Such a definition allows people to associate the lynching of Shipp and Smith with the idea of 'popular justice' and community norms. It also establishes a causal relationship between the crowd in Beitler's photograph and the perpetrators; they become murderers, not bystanders. De la Roche weighs the importance of spontaneity and disorganization to suggest the idea of lynching was generally carried out by a frenzied, lawless mob.

In another article, de la Roche states that there are two forms of lynching: classic, and communal. In the classic form, de la Roche

¹⁰ Roberta de la Roche, "Collective Violence As Social Control," *Sociological Forum*, Vol 11., No. 1 (March 1996), 98.

¹¹ Roche, 104.

indicates, “members of an established group or community punish an outsider or a newcomer” whereas in communal lynching “members of such a group or community punish an insider.”¹² In both cases, de la Roche highlights the importance of lynching being an act of violence carried out by a unified community aroused spontaneously and without foresight to violence. Such a definition indicates the tendency for a lynching to be done at the hands of large group. The indication of communal activity corresponds with the idea of lynching being synonymous with the mob.

In response to the best-selling book *Without Sanctuary*, a publication which focuses on the legacy of lynching photographs, authors Jessy Ohl and Jennifer Potter address the topic of community and lynching in the article “United We Lynch: Post-racism and the (Re)membering of racial violence in *Without Sanctuary: Lynching Photography in America*.” The authors argue that *Without Sanctuary* constructs the memory of lynching as a manifestation of cultural solidarity¹³ and creates “counter- memory that opposes traditional narratives of lynching by, first, enlarging the scope of racial violence, second, by collapsing distinctions between spectators and the mob.”¹⁴ They also state “lynching participants are framed as mindless actors incapable of self- control.”¹⁵ Though the authors do not define the actual characteristic of mob violence, they suggest that the lawless mob has become synonymous with the general act of lynching. This is seen by the authors to

¹² Roberta de la Roche, “Why Is Collective Violence Collective,” *Sociological Theory*, Vol 16., No. 2 (2001), 130.

¹³ Jessy Ohl, and Jennifer Potter, ““United We Lynch: Post-racism and the (Re)membering of racial violence in *Without Sanctuary: Lynching Photography in America*,” *Southern Communication Journal*, Vol 73.,No. 3 (July-August 2013), 191.

¹⁴ Ohl, 187.

¹⁵ Ohl, 189.

be an unsatisfactory lens through which to analyze lynching as a whole. The article presented here aligns itself more closely with the attitude of authors Jay Corzine, Huff-Corzine, and Candice Nelsen who indicate the complexities in linking lynching with “mob rule”.

In “Mob Sociology and Escalated Force: Sociology's Contribution to Repressive Police Tactics” David Schweingruber discusses how sociologists define mob violence. He raises the point that a crowd must be distinguished from a mob. “A mob”, he explains, “is characterized by leadership, organization, a common motive for action, emotion, and irrationality, but the key factor differentiating it from a crowd is that a mob is not law-abiding.”¹⁶ He also states that a crowd’s progression to what forms a mob is at the hands of leaders and agitators.¹⁷ Here, there is importance given to organization and leadership, which challenges the conventional idea of mob rule. In the common conception, a mob is spontaneous, leaderless, and unorganized. It is this inconsistency obscures much of the history of lynch mob violence. Was lynching a product of crowd mobilization, thus signifying a collective, communal importance? Or was it an organized and pre-planned act perpetrated by a small number of people who hid behind the idea of the mob to escape the law? This paper will use the Marion lynching to explore these questions. It suggests that while there was a crowd which gathered in front of the jailhouse on the night of the killings, the people were there as spectators. The ‘leader’ or ‘agitators’ did not emerge from the crowd as the definition suggests, rather the perpetrators were in all likelihood outsiders who operated

¹⁶ David Schweingruber, “Mob Sociology and Escalated Force: Sociology's Contribution to Repressive Police Tactics,” *The Sociological Quarterly*, Vol 41., No. 3 (2000), 373.

¹⁷ Schweingruber, 374.

without the direct consent or aid of the spectators.

August 7, 1930

On August 7, police arrived at the homes of Thomas Shipp, Abe Smith, and James Cameron. The three men were arrested for the murder of Claude Deeter and the sexual assault of Mary Ball. The three were being held in custody in the Grant County jailhouse by the afternoon. According to Cameron, a crowd began to gather in front of the jailhouse “as soon as [they] were put in jail.”¹⁸ The news of the arrest quickly spread through the town. Despite rumours circulating the town that some people were planning a lynching, Sheriff Jake Campbell took no precautionary action. Likewise, the mayor of Marion, Jack Edwards, left that afternoon for Indianapolis. Edwards too had heard rumours of the lynching, but chose ignore them since, “these things didn’t happen in the North.”¹⁹ But by nightfall a large crowd had assembled by the jailhouse. And as the townspeople waited in front of jailhouse, a group of men arrived with the intent of murdering Shipp and Smith. They were widely believed to be from Fairmount²⁰ – Deeter's hometown.

It was when the small group of men arrived that Sheriff Campbell grew concerned. He told newspapers later that as he decided to evacuate Shipp, Smith and Cameron out of Marion, he discovered that the gas had been siphoned from his vehicle, and the air had been let out from his tires.²¹ What appears to have motivated Campbell’s escape attempt

was the presence of a group of men outside the jailhouse carrying sledgehammers. When escape proved impossible, the sheriff fired tear gas into the crowd to try and disperse the aggressive men attacking the building, but it had no effect.²² Campbell refused, however, to fire any weapons because he feared injuring innocent people. The Sheriff’s deputies obeyed the order as the perpetrators made their way past the first door (and the deputies) and entered the jailhouse.

The perpetrators made their way into the cell block. Among the many African American men held captive, they grabbed Shipp. The men then proceeded to beat Shipp before they hanged him there at jailhouse. Someone drove a crowbar through his chest before his feet left the ground.²³ Next, the men made their way back into the jailhouse where they found Smith. Smith’s death was much more agonizing. The attackers dragged him outside and down the street towards the Grant County courthouse. Along the way he was beaten by the perpetrators, by at least one female spectator and, according to one newspaper, by children as well.²⁴ Charlotte Vickrey witnessed the events that night and remembers seeing Shipp being hoisted up by his neck. She remembers seeing Shipp struggle and try to grab the rope to stop from choking: she recalls that they “let him down and broke his arms... they pulled him up again.”²⁵ At the tree in front of the courthouse, Smith was hanged. Smith had been the man accused of raping Mary Ball;

¹⁸ James Cameron, *Sweet Messenger: An Oral History*.

¹⁹ Jack Edwards interviewed by Larry Conrad, *Interview: Jack T. Edwards, February 15, 1977*, Indiana University-Purdue University Indianapolis (1977).

²⁰ Thurman Biddinger interviewed by Larry Conrad, *Interview: Thurman Biddinger, n.d.* Marion, Indiana: Indiana University - Purdue University Indianapolis (1977); *Greencastle Herald*, “Marion Mob Hangs Two Negroes,” (August 8, 1930).

²¹ Madison , 7.

²² *The Kokomo Tribune*, “Marion Is Quiet After Lynchings,” (August 8, 1930); Madison, 8.

²³ James Cameron, *Sweet Messenger*

²⁴ *The Capital Times*, “2 Negroes Lynched by Indiana Mob” (August 8, 1930). In the documentary *Sweet Messenger*, Thomas Lytle tells of how one woman jumped on Shipp from a car with her heels. The newspaper which describes a group of women and children attacking the body is likely exaggerated, as many of the facts have been.

²⁵ Charlotte Vickrey, *Sweet Messenger: An Oral History*.

as a result his penis was cut off.²⁶ Shipp was then cut down from the jailhouse and dragged down the street to be hung up beside his friend. But there was still one more person that the perpetrators were after.

The perpetrators returned to the jailhouse and began to search for Cameron. According to Cameron, outside the angry mob began to chant, "We want Cameron! We Want Cameron!"²⁷ Later, Campbell would tell news sources that the Sheriff told the perpetrators "you have your two men now, that should satisfy you."²⁸ But the Sheriff's words held no value to the men looking for blood. They entered the jailhouse once more to find Cameron. Cameron was among several black men in his cell, but they could not identify who he was. According to Cameron, one of the men said, "If we don't get Cameron we are going to lynch every one of you niggers."²⁹ After Cameron was identified, he too was dragged to the courthouse. As Cameron felt the rope tighten around his neck and the men prepared to hang him, a voice cried out from the crowd

²⁶ Evelyn Thompson interviewed by Larry Conrad, *Interview: Donald O. Stewart, 1977*, Indiana University Archives – Purdue University Indianapolis (1977); Jack Edwards interviewed by Larry Conrad, Indiana University Archives – Purdue University Indianapolis (1977). Madison actually suggests that this did not happen. However based off of personal accounts there is information to presume that it did. This is supported by looking at the photograph. Smith is seen hanging on the right: he has a sack tied around his lower body in place of his pants. At some point they were removed during the lynching – most likely done so to remove his genitals.

²⁷ James Cameron, *Sweet Messenger: An Oral History*

²⁸ *The Kokomo Tribune*, "Marion Is Quiet After Lynchings," (August 8, 1930). In the documentary *Sweet Messenger*, James Cameron made a similar statement by stating that the Sheriff told the men "These are boys... you done hung to of em, that oughta satisfy you." It is interesting that over 70 years later, Cameron recalls the Sheriff's statement almost word for word, with only slight variance. This raises the question: is Cameron's memory that exact, or is he remember the story from the sources retelling the lynching that night?

²⁹ James Cameron, *Sweet Messenger*

that Cameron was innocent. And the so called 'angry mob' was able to suddenly restrain themselves. Don Millsbaugh, who witnessed the lynching that night, believes that the perpetrators stopped with Cameron because they had already "spent their rage and passion" on Shipp and Smith.³⁰ Who called out has never been clear: Cameron believed that it was an angel; however, others in the crowd identify the voice to have come from Mary Ball's uncle.³¹ Regardless, it appears that this voice saved Cameron and he was permitted to walk back to the jailhouse. Some men then stacked wood below the hanging bodies and attempted to light it on fire. But the wood was unable to catch.

When Jack Edwards, the mayor of Marion, heard the news he drove through the night until he arrived back in Marion. He arrived at approximately 6:00am, but by that time the bodies had been cut down.³² Having access only to second-hand accounts, Edwards was told about the massive mob that had assembled in front of the jailhouse to lynch Shipp and Smith. It appears that both the white community and African American community suggested this. Edwards then asked Sheriff Campbell to call the National Guard as he feared that this unstoppable mob that he had heard about might harm the black community within Marion. In 1977, Edwards recalls the incident: "the Sheriff didn't think it was serious enough to call the National Guard in... I got on that telephone... and raised hell with the Governor's office." He did so based on his understanding of the lynching that night: when there was "mob rule", he explained, "you can't control it."³³ Because of Edwards' concern that the mob may still be at large, he placed a call to the Governor's office and the

³⁰ Don Millsbaugh, *Sweet Messenger: An Oral History*

³¹ *The Kokomo Tribune* (1930)

³² Jack Edwards interviewed by Larry Conrad, Indiana University Archives – Purdue University Indianapolis (1977).

³³ Jack Edwards interview.

National Guard entered Marion and established martial law.³⁴

Edwards was not the only person to explain the lynching by focusing on the actions of the mob. When recounting the events of the night of August 7, citizens of Marion also indicated the importance of the mob. Don Milspaugh, for example, said that “the mob was in full control” and that it had been “violence at its worst.”³⁵ Newspapers also reported the incident to be the result of a collective mob totaling: 1000,³⁶ 5,000³⁷; or even 10,000.³⁸ In “The Influence of Political Dynamics on Southern Lynch Mob Formation and Lethality”, Ryan Hagen, Kinga Makovi, and Peter Bearman indicate that through their research they discovered two distinct problems with relying on data collected by newspapers. First, they indicate the issue of factual accuracy and the question as to “whether or not the information reported in these articles faithfully recounts actual events.” Secondly, they discovered that there was an issue with coverage bias. They reveal that there is a challenge in determining whether data is “biased by patterns of news production.”³⁹ The uncertainty is evident just by reviewing reports on the size of the mob in the news sources. This is the case with both African American newspapers and those determined to be mainstream, white newspapers. It is interesting that, without question, both the black and white communities, whether demonstrated by the testimonies from citizens or by news sources reporting on the event, were able to agree that the death of Shipp and Smith was the result of mob violence. But that explanation does not really fit the evidence.

³⁴ Ibid

³⁵ Don Milspaugh, *Sweet Messenger: An Oral History*

³⁶ *The Capitol Times*, “2 Negroes Lynched by Indiana Mob” (1930)

³⁷ *The Kokomo Tribune* (1930)

³⁸ *Greencastle Herald* (1930)

³⁹ Hagen, Makovi, & Bearman, “The Influence of Political Dynamics on Southern Lynch Mob Formation,” 764

Vaughn Treber, who would succeed Campbell as Sheriff while attributing the violence to the power of the mob thought “most of the people that took part did not know what it was all about.”⁴⁰ But Treber, like most, refused to reject the idea of the mob. It could be because these individuals, like many others in Marion, shifted blame to the collectivity because people they knew were murderers; after all both Treber and Edwards knew the men who participated.⁴¹ Secondly, the idea of dismissing the lynching of Shipp and Smith as the result of a lawless mob which took over citizens is likely much more comfortable for the Marion community than accepting that most of town simply stood by and watched two men being murdered. The lynching of Shipp and Smith is implicitly rationalized as the act of a social phenomenon of crowd behavior: in a strange way, Marion townsfolk can claim victimhood because mob passions overcame them.

The stories told by Treber, Edwards and Milsphaugh is quite similar to that published in the mainstream news services. Newspapers such as the *Kokomo Tribune*, *The Capital Times*, the *Greencastle Herald*, *The Indianapolis Star*, and the *Chicago Tribune* all explain the lynching as an act of mob violence. Yet, none of these papers published the photo taken by Beitler. The editors of these papers likely rationalized this decision due to the image being “revolting” or not in “good taste.”⁴² As indicated by testimonials, there was disapproval from the entire community after the event. The news sources could have intended to propagate the importance of mob violence for the same reasons as citizens wanting to distance themselves from the death

⁴⁰ Vaughn Treber interviewed by Larry Conrad, *Interview: Vaughn Treber, March 23, 1977*, Indiana University – Purdue University Indianapolis

⁴¹ Jack Edwards Interview.

⁴² Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940*, (University of North Carolina Press, 2009), 211

of Shipp and Smith. A study in 1938 by Jessie Daniel Ames on the subject of news coverage of lynchings suggests that editors “do not reflect their own ideas but those of the people upon whose goodwill their papers depend for revenue.”⁴³ Perhaps these newspapers had incentives to reshape the story of what happened on August 7th. But one can only speculate.

The African American community tended to support the idea of mob violence as well. The *Indianapolis Recorder* is one of the oldest African American newspapers in the United States. Its activism for the black community justified its interest in the deaths of Shipp and Smith. The *Indianapolis Recorder* was published just once a week, but every newspaper, from August 9th 1930 until January 1931 included front-page articles on the lynchings. In addition, the *Indianapolis Recorder* was one of the few to feature Beitler’s photo.⁴⁴ The need to address the racial issues associated with lynching is important, but the *Indianapolis Recorder* contributed to the understanding of the Marion lynching as being the result of mob violence. Headlines such as, “Scene of Double Lynching Orgy Again Tranquil With Presence Of State Guards Who Brought Peace to Mob City”⁴⁵ allow readers to visualize a violent and destructive mob rampaging through town. Such an interpretation dismisses the facts behind Marion’s lynching. No vandalism was carried out and there was no riot. Besides Shipp and Smith (and the aborted murder of Cameron no other African Americans were attacked. Realistically, the approach taken by the *Indianapolis Recorder* and NAACP did aide their pursuit towards racial equality. This can be seen in the successful passage of an anti-

⁴³ Jessie Daniel Ames, “Editorial Treatment of Lynchings,” *American Association for Public Opinion Research*, Vol 2., No. 1 (1938), 77

⁴⁴ *Indianapolis Recorder*, “14 Year Old Youth May Be Victim,” (August 16, 1930)

⁴⁵ *Ibid*

lynch law in Indiana in 1931. But African-American activists also helped to shift the blame from actual perpetrators to a community of bystanders. Given the way in which the murders were constructed in the retelling, it is hardly surprising that no one was actually held accountable for the lynchings.

Shortly after the murders, District Attorney James Ogden was charged with investigating the lynchings and prosecuting the perpetrators. Ogden stepped in after local attorney Harley Hardin chose not to convict anyone. Historian James Madison reveals that Hardin was up for reelection at this time, and that he therefore moved cautiously as he hoped to gain the white vote.⁴⁶ Thurman Biddinger, a lawyer brought in to assist Hardin, claims that Hardin chose not to indict anyone because he thought that within the Marion community it would not be possible, not because he thought it would be unpopular.⁴⁷ By October 1930, Ogden and his team, however, had indicted 7 men who took part in the lynching as well as Sheriff Campbell for failure to protect Shipp and Smith.⁴⁸ Unfortunately, even with involvement with community members and the NAACP, the State failed to convict any individuals for the lynching⁴⁹, and the only person from that night to ever serve a prison sentence was James Cameron.

A Community Response to a Sex Crime?

Lynching is often associated with the protection of white womanhood; a rationale

⁴⁶ Madison, *Lynching In The Heartland*, 70

⁴⁷ Thurman Biddinger interviewed by Larry Conrad, *Interview: Thurman Biddinger, n.d.*, Indiana University – Purdue University Indianapolis, (1977)

⁴⁸ *Indianapolis Recorder*, “Ogden Swoops Down on Marion Lynchers; Names Sheriff, 7 Men,” (October 18, 1930)

⁴⁹ *Indianapolis Recorder*, Jan 1930

developed during Reconstruction.⁵⁰ A study once completed by Ida B. Wells, an activist in the 1890s, found that only one third of lynchings in the South were actually linked to rape accusations.⁵¹ Lynching has often been rationalized as a communal event initiated in order to protect the purity of white women. Even now, some historians look at lynching through this lens by indicating the importance of rape accusations against African American men. The idea of a community lynching a black man in order to protect white women does again serve to rationalize the actions of lynchers by depicting them as instruments of popular justice. The lynching in Marion has been seen in this light because of the presumed rape of Mary Ball. This justification attempts to place the Marion lynching into the cultural understanding which already exists. By highlighting Mary Ball's allegation, the perpetrators themselves are hidden behind the white crowd seen in the photograph. That being said, Mary Ball may still have played a significant role in the lynching of Shipp and Smith.

The relationship Mary Ball had with Deeter was the subject of speculation in 1930, and that speculation continued even into the late 1970s. After Deeter had been killed, Ball claimed to have been engaged to Deeter. This only added complexity to the narrative. Deeter's family claimed they had never even met Ball, and that this alleged engagement had never been mentioned to them.⁵² Countering this, Vaughn Treber went as far as to state that he believed that Ball was affiliated with Shipp, Smith and Cameron, and had been a part of a scheme to rob Deeter. In his opinion, it was not an accident that she was there, and claims she actually acted as a decoy in the planned

⁵⁰ Crustal N. Feimster, *Southern Horrors: Women and the Politics of Rape and Lynching*, (Harvard University Press, 2009), 90

⁵¹ Painter, "Who Was Lynched?" 577.

⁵² Madison, 68.

hold up of Deeter. As a group, according to Treber, "these niggers and them would hold [drivers] up".⁵³ Treber may be only one who indicated Ball's involvement in the crime, but the assumed relationship she had with Smith was echoed by other members of the community. It was often assumed that Ball had actually been in a relationship of some sort with Smith. Townsfolk claimed that she had often been seen with Smith and wore a watch that he had given her: this they believed to be a gesture of intimacy.⁵⁴ An interesting account which pertains to this speculation was offered by Dr. Ross's former secretary, Ada Turner. Dr. Ross had been the doctor to assess Ball after the alleged assault. Based on Turner's account, the Doctor concluded that Ball had been raped, but "he wasn't too much upset about it, because the report was that she had been living for a time with Negro men... that was the reason there was not that much attention paid to it."⁵⁵ It is not quite clear what is meant by this exactly, but it seems that Dr. Ross dismissed the importance of Ball's assault due to having sexual encounters with African American men. What this says about the doctor or about racial attitudes in Marion is not fully clear, but it does seem to counter the understanding of this lynching being a communal response to white womanhood coming under threat. Why would a community that seems to recognize Ball's relationship with an African American suddenly go out to protect her purity?

Ball's involvement is still not fully understood. Research done by James Madison on the lynching in Marion indicates that Ball played a critical role in subsequently creating

⁵³ Vaughn Treber, *Interview: Vaughn Treber*, Indiana University Archives – Purdue University Indianapolis (1977).

⁵⁴ Madison, 68

⁵⁵ Ada Turner interviewed by Larry Conrad, *Interview: Walter Fransler, August 24, 1977* Indiana University - Purdue University Indianapolis, (August 24, 1977).

the narrative of Deeter's death.⁵⁶ What this could indicate is that Ball's retelling of the story excited people over the crime committed against Deeter. It is believed that many, if not all, of the perpetrators arrived from Fairmount, Deeter's hometown and that they were his friends⁵⁷. Rather than Ball initiating the lynching by her allegations of sexual assault, perhaps she insighted the men by dramatizing the events among Deeter's friends in Fairmount.

There is one critical piece of evidence that Madison brings forward, however that does weigh the importance of Ball's allegations. As Cameron was dragged towards the tree to be hung, a voice called out declaring Cameron's innocence. Madison, along with the newspaper *The Kokomo Times* indicated that the voice seemed to have been that of Ball's uncle.⁵⁸ And as witnesses indicate, after this voice was heard the men stopped and released Cameron. What this seems to suggest is that the men may have been carrying out the action as justice for Ball and her family. This raises an important issue: how is it that the voice of one man was able to suddenly stop the lawless mob which had supposedly taken over Marion? What this suggests is that the lynching of Shipp and Smith was not carried out by a lawless mob of over 5000 people, but simply by a group of men from out-of-town carrying out justice as they saw fit. The people of Marion just stood by and watched. But what played a bigger role, the death of Claude Deeter, or Mary Ball's allegations of rape?

Some witnesses claim that just before the lynching began, Deeter's bloody shirt had been hung in the window of the jail. Deputies claimed that they did this in order to allow the soaked shirt to dry⁵⁹, but it seems to indicate

something else. The planning behind the lynching is clear by preparations that were made: the perpetrators had arrived with sledgehammers and the rope to hang the men. But what also indicates the idea of the lynching being planned is the involvement of Sheriff Campbell. Firstly, the boys confessed while held in prison⁶⁰, presumably to Campbell himself. But his entire involvement in the event seems very odd. The story that he told newspapers about his attempts to get Shipp and Smith to safety seems too coincidental: as he was about to transport Shipp and Smith to a safe location, the air had been released from his tires, and the gas tank had been emptied. It is also strange why he even allowed such a large crowd to assemble in front of the jailhouse, especially after hearing the rumours of the lynching. Not only that, but Campbell completely failed to prevent the perpetrators from entering the jailhouse. According to Vaughn Treber, there was "quite a crowd there around the jail to start with when those fellows came," and that "everybody around there new about it."⁶¹ Campbell, if acting on behalf of his prisoners, should have been aware of the coming threat.

After firing tear gas into the crowd Campbell failed to authorize any additional force. He told newspapers that he chose not to exercise any additional force due to his fear of hurting an innocent person in the crowd.⁶² Thurman Biddinger defends his claim by indicating his belief that Campbell would probably have had to kill somebody to stop the perpetrators.⁶³ But Vaughn Treber – the man to succeed Campbell as Sheriff – thought that Campbell may have had something to do with the lynching. The story of August 7th highlights that a group of men broke into the jailhouse by

⁵⁶ Madison, 67

⁵⁷ Madison, 65

⁵⁸ Madison, 10; *The Kokomo Tribune*, "Marion Is Quiet," (1930), 1

⁵⁹ Madison, 86

⁶⁰ Jack Edwards interview.

⁶¹ Vaughn Treber interview.

⁶² *Chicago Tribune*, "Troops On Way to Marion Indiana After Lynching," (Aug 9, 1930), 1

⁶³ Biddinger interview.

using sledgehammers to unhinge the front door. Treber states, “the mob didn’t have to do much breaking.”⁶⁴ Once passed the first door, the perpetrators were able to approach the cellblock without any obstacle. Treber reveals that: “There are 7 different locks between that front door and the cell block... If [Campbell] had been the kind of man he should have been, he would have locked every door behind him... By the time they could have torn down all those jails they would have had the National Guard here.”⁶⁵ Even if Campbell had decided to not respond to the perpetrators with violence, which he did not, he still could have protected the prisoners by simply locking down the jailhouse. Campbell’s total failure to stop the lynching seems to indicate that he may have been more than aware of the plan to lynch Shipp and Smith, and created a situation where it would succeed. Take into account Campbell’s refusal to call in the National Guard. If the lawless mob had been a reality, as a lawman Campbell would no doubt have been obliged to call for aid.⁶⁶ It is noteworthy that Shipp and Smith confessed to their crime in prison, therefore only Campbell and his deputies would have been aware that they were in fact guilty. The fact that the lynching took place only hours after the boys were detained could suggest that Campbell or one of his deputies shared the information. This, and Campbell’s complete lack of effort to keep Shipp and Smith safe, suggest that planning and been involved in the Marion lynching.

Even if Campbell was not involved in the lynching, he still deserves a majority of the blame for what transpired. In the study titled “The Influence of Political Dynamics on Southern Lynch Mob Formation and Lethality” Ryan Hagen, Kinga Makovi, and Peter Bearman indicate the importance of law enforcement in

⁶⁴ Vaughn Treber Interview.

⁶⁵ Ibid

⁶⁶ It had been Jack Edwards who had called the National Guard

the lynching process. They discovered that in the carrying out of lynchings throughout the South, approximately one third of them had been thwarted by law enforcement.⁶⁷ Based on archival evidence the authors believe that “the success or failure of a potential lynching hinged overwhelmingly on a single contingency: the intervention or non-intervention of law enforcement.”⁶⁸ Put into the context of the entire history of lynching, it seems that law enforcement can perform its duty even in the face of the so-called ‘lawless mob’. There is evidence then, based off of accounts as well as comparison, that suggests Campbell could in fact have saved the lives of Shipp and Smith had he chosen to act

Racism

The story told by James Cameron has very much influenced the current understanding of the Marion lynching. But to what degree is Cameron’s story dependent on his memory, or simply the story that has been told by everyone else? Were there really 15, 000 people screaming “We Want Cameron”, or has his retelling of the event been influenced by other sources? By Cameron’s own account, as well as the story told by others, he remained in his jail cell throughout the lynching until he was dragged out himself. Therefore, his memory of that night can really only be formed from what he heard outside of the jailhouse. With that in mind, the visuals that he has depended on to relive the event is mostly the storytelling created by citizens and newspapers, and the photograph. In the documentary *Sweet Messenger*, Cameron leads the viewer to look at his own personal copy of the framed photograph taken by Beitler. As a

⁶⁷ Hagen, Makovi, and Bearman, “The Influence of Political Dynamics,” 758. In this article they, like many academics, define the large scope of lynching as a the result of a mob. Though this is a problem, its discussion pertains to the study of lynching itself and the many actors involved, therefore is relevant.

⁶⁸ Hagen, Makovi, and Bearman, 760.

source of memory, “the archive of lynching photography constitutes a site of struggle over the interpretation of the history of racial violence and black citizenship in the United States.”⁶⁹ The problem with relying upon the image of Shipp and Smith’s bodies is the explicit suggestion of white solidarity. This problem is demonstrated by “Strange Fruit”, and also by James Cameron. The lasting legacy of lynching photographs acts, as authors Jessy Ohl and Jennifer Potter have suggested, as counter-memory. Much like the *Indianapolis Recorder*, which indicates the importance of racial oppression, the photograph frames lynching as a “ritual of community and citizenship”⁷⁰ thus promoting the idea of this being a collective unitary mob. And for James Cameron, his own survival is identified most with the engagement of the photograph portraying the death of his two friends.⁷¹

To say that Cameron had no visual memory of the lynching is not entirely accurate. He was dragged outside to the same tree that Shipp and Smith were hanging from. But he was beaten on the way and forcefully dragged to the tree. Being under such stress, both physical and mental, how is it that Cameron could distinguish between who was attacking him, and who was watching? It is likely that in such a situation, he was unable to distinguish who were the perpetrators and who was a bystander. This, along with the traumatic experience of witnessing the bodies of Shipp and Smith, the retelling of the lynching by African American communities, newspapers and townsfolk expanding on the tale of the lawless mob, and the visual of the photograph, all likely pushed his understanding of the lynching as a product of a unified, vengeful and unreasoning mob. This interpretation, as we

⁶⁹ Leigh Raitford, “Photography and Practices of Critical Black Memory,” *History and Theory*, Vol 48. No. 4 (2013), 114.

⁷⁰ Ohl & Potter, “United We Lynch,” 193.

⁷¹ Raitford, 121.

have seen, has been critical to black memory and has functioned “as an important resource for framing and mobilizing African American social and political identities and movements.”⁷² For Cameron, the visual representation of the photograph itself became a tool in the struggle for civil rights, and signified the memory of racial aggression through mob violence.⁷³

Racism was a reality in Indiana in the 1920’s. The state had a substantially large membership of Ku Klux Klan members: fifteen percent of the men in Grant county were members.⁷⁴ They played an important role in state politics and even played a critical role in the election of Governor Edward Jackson in 1925.⁷⁵ Klansmen were a dominant force in Indiana, but by 1925, mostly due to internal scandal, the Ku Klux Klan had essentially ceased to exist as a legitimate institution.⁷⁶ But areas like Marion were hubs for Klan membership, and even Sheriff Campbell was widely understood to be a one-time member. As Thurman Biddinger stated, he was sure that Campbell was a member of the KKK and that “at this time in this county you needed Klan support to be elected.”⁷⁷ Lowell Nussbaum, a reporter with *the Indianapolis Star* at the time of the lynching, agreed that Campbell was a member of the Klan, but “so were most of the [public] officials.”⁷⁸ Clearly, in the state of Indiana, the Ku Klux Klan had a presence. But did the Klan have any involvement in the lynching of Shipp and Smith?

In the 1920s the Klan was not a force of white supremacy to the degree that it is often

⁷² Raitford, 113.

⁷³ Raitford, 124

⁷⁴ Madison, *Lynching In the Heartland*, 40

⁷⁵ Kenneth T. Jackson, *The Ku Klux Klan In The City*, (1967), 152.

⁷⁶ Ibid

⁷⁷ Biddinger interview.

⁷⁸ Lowell Nussbaum interviewed by Larry Conrad, *Interview: Lowell Nussbaum, May 10, 1977*, (Indiana University Archives – Purdue University Indianapolis)

suggested, and it did claim to be non-violent in Indiana.⁷⁹ The Klan's newspaper the *Fiery Cross*, which was published from 1923-1925, reveals something of the group's main purpose. Scattered throughout the paper are articles discussing the papers request for immigration reform.⁸⁰ And throughout are articles highlighting the importance of American values. These articles do not distance the Klan from white supremacy, but some articles in the newspaper highlight the Klan's sense of morality and its desire to uphold justice. Most notably, there several articles denouncing acts of lynching and some even tell tales of Klan members defending men being lynched by an angry mob.⁸¹ It is possible that the Klan only propagated this idea, but as stated before, Grant County, an area littered with Klan membership, had never had a lynching before 1930.

Another interesting fact is that one of the men who was indicted for the lynching was a recent Turkish immigrant.⁸² It was never proven that he had in fact been a member of the group who lynched Shipp and Smith; however the investigation by the State did target certain individuals on the basis of testimonials. Knowing the Klan's position towards immigration, it seems unlikely that a recent Turkish immigrant would have been allowed to join their ranks. Was this a sign that one-time Klansmen in positions of authority were shifting the blame onto immigrants? It is impossible to know, but it is also hard to link the Klan in any direct way to the Marion lynching.

Why is it important to question the Klan's involvement? Because the Klan's influence is often used to support the idea of unruly mob violence. Vaughn Treber believed, for

example, that Klansmen were responsible for getting good citizens "whipped up to be ready for anything."⁸³ The lawless mob is then seen to have been instigated by the Klan. By insisting that the Klan had in some way orchestrated and manipulated the community into participating in a lynching, the community in Marion becomes a victim of its time. Insisting on Klan involvement is much like insisting that the lynching in Marion was beyond anyone's control. It again allows particular perpetrators to escape behind the excuse of the unruly, unreasoning, hate-filled community.

Conclusion

There is no consensus among academics on the meaning of the "mob violence" and lynching has therefore been a subject of considerable debate. Most scholars seem to accept a popular understanding of lynching as a collective action undertaken by a "community" aroused to defend values it sees as threatened. The Marion lynching has, since the 1930s, been seen as exemplifying the violent and racist attitudes of white Americans. Beitler's photograph has been treated as a critical piece of evidence and has contributed to our perception of the events in Marion as a product of community action. The savage image of white people smiling bellow the dangling bodies of black men lends an almost festive, communal quality to the event. Likewise, the mass of people who gathered in front of the Grant County jailhouse, and later the courthouse, has been interpreted as constituting a uniform group. But the formation of a crowd does not then automatically indicate collective behavior. In fact, "people in gatherings engage in a variety of individual behaviors and may also, occasionally, engage in what we term

⁷⁹ Madison , 38; Jackson, XI.

⁸⁰ The Fiery Cross, Vol 6., 6.

⁸¹ The Fiery Cross, "Anti-lynching Crusade Strides in 1923," (1924), 6 and , "Judge For Yourself," (1923), 4

⁸² Madison, *Lynching In The Heartland*, 87.

⁸³ Vaughn Treber interview.

collective behavior.”⁸⁴ A correlation between the gathering of townsfolk, and the murder of Shipp and Smith does not mean that one caused the other.

The best understanding of lynching has been provided by academics who have studied localized occurrences rather than the issue as a whole. Through these studies it is then seen that “the extent to which the facts of a single event can be generalized to a larger set of lynchings is questionable.”⁸⁵ As with other studies of individual lynchings, the Marion case supports the idea that the event was planned by a select few, despite their own protestations. These perpetrators, whose number seems to have been around twenty, were not leaders of a mob. They were an identifiable group of men who arrived in Marion from Fairmount, who broke into the jailhouse with the apparent support of the Sheriff, and who proceeded to lynch Thomas Shipp and Abe Smith. Leading up to this event, news spread throughout the town that something was going to happen, resulting in a rather large group of spectators. Though every testimony suggests that there was a mob, the behavior demonstrated by the perpetrators as well as the crowd does not support the claim that the citizens were out of control or acting together.

What caused the perpetrators to lynch Shipp and Smith can really only be speculated. Considering the fact that the perpetrators were from Fairmount and were described as young men, the most likely reason is that these men were friends of Deeter.⁸⁶ Other academics suggest that the perpetrators

committed this act due to complicity of the police in Grant County.⁸⁷ Personal accounts suggest that the police were held in fairly low esteem. Thurman Biddinger admits that the county rarely succeeded in court and that in prosecuting criminals “we lost a hell of a lot of cases.”⁸⁸ He also suggests that the police “weren’t the smartest group of individuals... if they caught someone they were pretty lucky.”⁸⁹ One needs only to examine the Sheriff’s response to the lynching of Shipp and Smith to understand law enforcement’s abilities. This explanation may very well have led Deeter’s friends to act.

It is critical to consider the above information when assessing the lynching in Marion. Many have simply dismissed this event as the result of mob violence. It is the common thread running through pop culture, academia, and community memory. But while one cannot look at the photo of Shipp and Smith’s bodies and expect to understand the emotions and actions that caused their deaths, it is important to question whether the community depicted in the picture was actually responsible for their deaths. Racism was and remains a very real cause of violence. But murders are committed by people and the guilty need to be held responsible. Broad sociological explanations may help us understand the context of lynching, and to understand why a community might stand by while murders occur, but they may have also inadvertently served to allow killers to escape justice.

⁸⁴ Clark McPhail, and Ronald Wohlstein, "Individual and Collective Behaviors Within Gatherings, Demonstrations and Riots," *Annual Review of Sociology*, Vol 9., (1983), 580.

⁸⁵ Amy Kate Bailey, Stewart E. Tolnay, E. M. Beck and Jennifer D. Laird, "Targeting Lynch Victims: Social Marginality or Status Transgressions?" *American Sociological review*, Vol 76., No. 3 (2011), 415.

⁸⁶ Madison indicates this in his book.

⁸⁷ Madison, 70.

⁸⁸ Biddinger interview.

⁸⁹ Ibid

“Rhetoric: The Embodiment and Reproduction of Athenian Democracy,” by Shannon Dawson

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In ancient Athens, democratic ideals permeated every aspect of their society. Upon analyzing surviving texts of forensic rhetoric, it becomes evident that the legal system was based upon democratic ideals. An analysis of the legal system and the roles of law, prosecutors, defendants, and jurors demonstrate the symbiotic relationship between rhetoric and democracy. Rhetoric itself and the different arguments that litigants use to win over the jurors demonstrate how democratic ideology was maintained and reinforced through the application of law within the court system. Litigants' use of rhetoric to appeal to the jurors reveal the importance of Athenian values such as equality, community, state service, and morality: all of which support the Athenian democracy. The potential for abuse in the legal system and the ability to persuade the jurors using rhetoric reveals the fragility of Athenian democracy. However, this study of rhetoric in the law-courts demonstrates that the abuse of the legal system was rare. In reality, rhetoric created a social contract between the elite and the masses, and demonstrated the considerable power of the *demos*. Although the ancient Athenian democracy was fragile, the use of rhetoric in the law courts exemplifies the overwhelming adherence to, and belief in, the corporate system, reinforcing democratic ideology within Athens.

Democratic Aspects of the Law

The design and operation of the Athenian legal system was inherently democratic. The Athenian legal system followed four universal

aspects of the rule of law: 1) equality before law, 2) accountability of officials, 3) accessibility of the legal system, and 4) no punishment without law.¹ The Athenian legal system promoted the rule of law by limiting the terms of officials, penalizing officials who failed to uphold the laws, distributing power equally among many officials, and creating clauses that limited officials' ability to overturn current laws.² As Edwin Carawan argues in *Rhetoric and the Law of Draco*, the implementation of laws and the introduction of the legal system created a new “social reality” in which democratic values had been defined “by a fixed standard to which all members of the community have access.”³ The vagueness of Athenian laws made them inherently democratic in nature. Historian Matthew Christ argues that laws were purposefully vague in order to leave the interpretation of the laws to the democratic body of the jurors.⁴

The division between private cases, *dikai*, and public cases, *graphai*, also demonstrates how the legal system was inherently democratic. *Dikai* were private cases that were only available to be pursued by the injured

¹ Edward M. Harris, *The Rule of Law in Action in Democratic Athens* (New York: Oxford University Press: 2013): 10

² Edward M. Harris, *Democracy and the Rule of Law in Classical Athens* (Cambridge University Press: 2006): 17-18

³ Edwin Carawan, *Rhetoric and the Law of Draco* (Oxford, Clarendon Press, 1998), 5

⁴ Matthew R. Christ, *The Litigious Athenian* (Baltimore and London, The Johns Hopkins University Press: 1998): 24

party, or the relatives of the injured party.⁵ The ability for an individual to bring a suit was an inherent feature of the Athenian democracy, as argued by historian Moses Finley. Finley states that “conflict is not only inevitable, it is a virtue in democratic politics, for it is conflict combined with consent, and not consent alone, which preserves democracy from eroding into Oligarchy.”⁶ The ability to prosecute one another was an important aspect of the Athenian democracy. *Graphai* cases could be brought by any Athenian citizen; these were cases that had an impact on the *demos*.⁷ The gravity with which *graphai* were handled demonstrates the intolerance of any disruption to the Athenian community. The primacy of the *graphai* is demonstrated by Plutarch, who argued that prosecuting individuals who disrupted the Athenian democracy further solidified the Athenian corporate identity.⁸ The importance of the cohesion in the *demos* is demonstrated as *graphai* suits were allocated more court time and resulted in more severe penalties for those found guilty. Additionally, prosecutors of *graphai* would be fined 1000 drachma if they were unable to gain a fifth of the jurors’ votes.⁹ Both the *dike* and the *graphe* demonstrate the importance of democracy in Athens.

Within this public and private division, the legal system’s open texture made it possible for Athenian litigants to choose between multiple methods for pursuing legal action. There were several types of trials available, and the avenues for pursuing legal action were inherently democratic as they were created with the intention of being applicable to all

⁵ Robin Osborne, “Law in Action in Classical Athens”, in *Athens and Athenian Democracy* (Cambridge: 2010), 171

⁶ M.I. Finley, ‘The Athenian Demagogues’, *Past and Present* (1962): 21

⁷ Osborne, “Law in Action in Classical Athens,” 171

⁸ Osborne, “Law in Action in Classical Athens,” 174

⁹ Victor Bers and Adriaan Lanni, “An Introduction to the Athenian Legal System,” *The Stoa: a consortium for electronic publication in the humanities* (2003): 7

citizens, regardless of socioeconomic status.¹⁰ Demosthenes reveals the unique nature of the Athenian legal system in this passage:

Solon, who made these laws, did not give those who wanted to prosecute just one way of exacting justice from the offenders for each offense but many... for example thieves. You are strong and confident: use the summary arrest procedure; you risk a 1000 drachma fine. You are weaker: use *ephegesis* [the procedure for pointing out an offender for arrest by magistrates — to the magistrates]; they will then manage the procedure. You are afraid of even that: use a *graphe*. You have no confidence in yourself and are too poor to risk a 1000 drachma fine: bring a *dike* before the arbitrator and you will run no risk. Now none of these actions is the same.... It is pretty much like that for all offenses. Dem. 22.25-6 (translated by Bers and Lanni)¹¹

This passage reveals how the Athenian legal system accounted for various socioeconomic factors that might have hindered a litigant’s ability to pursue legal action.¹² The open texture of the law demonstrates the value Athenians placed on equality and justice. A scholarly debate arose from the analysis of the open texture of the legal system between historians Robin Osborne and Steven Johnstone. Osborne argues that the legal system itself was flexible and created numerous options for a litigant to choose from in pursuing his case.¹³ However, Johnstone argues that Osborne has exaggerated the

¹⁰ Osborne, “Law in Action in Classical Athens,” 175

¹¹ Bers and Lanni, “An Introduction to the Athenian Legal System,” 4

¹² Osborne, “Law in Action in Classical Athens,” 176

¹³ Osborne, “Law in Action in Classical Athens,” 201

flexibility of the legal procedures available.¹⁴ Johnstone distinguishes his research from Osborne's; Osborne's argument was from a legal perspective, while his own is from the perspective of dispute theory.¹⁵ Johnstone contends that it was not the legal options available that made the legal system egalitarian, but rather it was the interpretation of the laws and the choice to apply these laws to a specific aspect of a dispute that benefited all litigants.¹⁶ According to Johnstone, the legal procedures were not inherently flexible; rather it was the fact that a litigant could analyze an ongoing dispute to determine which aspect of the dispute would be easiest to prosecute according to the pre-existing legal procedures.¹⁷ Despite controversy about the flexibility of the legal system, both Osborne and Johnstone reach the conclusion that Athenian litigants of various socioeconomic backgrounds were able to use the legal system to their advantage, promoting equality and democratic ideals.

Not only was the Athenian legal system inherently democratic, the way that Athenian citizens understood the law reflected how democracy permeated their mindset. In understanding the laws, litigants did not simply take the laws at face value, but interpreted them by considering what the original lawgiver intended when writing it.¹⁸ While all laws were often attributed to Solon, the lawgiver was "not a person, but a trope"; Solon became the personification of all laws, even laws established after his death.¹⁹ Johnstone provides three strategies for interpreting law that the lawgiver provides: a non-literal reading, a reading of laws in

relation to other laws created by one lawgiver, and the interpretation of the laws as inherently democratic.²⁰ The identification of one universal lawgiver by the Athenians is what Johnstone refers to as an "interpretive convention".²¹ By identifying this lawgiver as Solon, who is widely considered by Athenians to have shaped the development of democracy, all laws are considered to have democratic intent.²² This interpretive convention of the lawgiver as Solon demonstrates how Athenians interpreted laws as inherently democratic.²³

Furthermore, all Athenian jurors swore what was called the dikastic oath to uphold the Athenian laws and to judge cases based on these laws. While scholars often interpret the dikastic oath to be a promise of jurors to vote strictly based on laws, Johnstone argues that Athenian litigants perceived the dikastic oath to have a larger significance: "a demand to uphold the whole system of laws that was thought to constitute the democracy".²⁴ The actual oath does not survive but it has been reconstructed by historians from various references to it.²⁵ Although scholars debate the exact wording, historian David Mirhady contends that the majority of scholars agree that there were two important elements to the oath: 1) that jurors voted 'according to the laws,' and 2) that they voted by their 'most just understanding'.²⁶ In his monograph *The Rule of Law in Action in Democratic Athens*, Ed Harris reiterates the importance of the criteria established by Mirhady and adds two further

¹⁴ Steven Johnstone, *Disputes and Democracy: the Consequences of Litigation in Ancient Athens* (United States, University of Texas Press: 1999): 21

¹⁵ *ibid.*, 21

¹⁶ *ibid.*, 21

¹⁷ *ibid.*, 21

¹⁸ Johnstone, *Disputes and Democracy*, 25

¹⁹ *ibid.*, 26

²⁰ *ibid.*, 26

²¹ *ibid.*, 32

²² *ibid.*, 31

²³ *ibid.*, 32

²⁴ *ibid.*, 36-37

²⁵ David C. Mirhady, "The Dikastics' Oath and the Question of Fact," in *Horkos: The Oath in Greek Society*, edited by Alan H. Sommerstein and Judith Fletcher. 1st ed, 48-59 (Exeter University Press, 2007), 49

²⁶ David C. Mirhady, "The Dikastics' Oath and the Question of Fact," 48

elements. Harris said it was the duty of the jurors to listen to both parties of the dispute equally, and to cast their votes based only upon matters relating to the charge at hand.²⁷ Particularly prevalent in public cases, where the dispute at hand impacted the *demos* as a whole, litigants referenced the dikastic oath to denote the jurors' duty to uphold not only the laws, but democracy as a whole.²⁸ The interpretation of laws and the reliance on the dikastic oath both demonstrate how the legal system reinforced democratic ideals. By interpreting laws as integral aspects of the democracy, which the jurors had to uphold as referenced by the dikastic oath, litigants are reminding the jurors of the importance of the *demos* and democratic values.²⁹ Prosecutors routinely asked the jurors to focus strictly on the law, hoping the jurors would only listen to an argument about the particular crime at hand.³⁰ In opposition, defendants pleaded with the jurors to adhere to their oath and maintain "procedural fairness," in hopes that the jurors would listen to their entire narrative, regardless of legal relevance.³¹ In "Power and Oratory," Josiah Ober argues that jurors did not cast their votes strictly based upon the legal facts, but came to conclusions from their understanding of socially accepted norms and values.³² Laws represent the foundation of Athenian democracy; how Athenian citizens perceived and used the laws demonstrates how laws were inherently democratic and that the use of laws and the dikastic oath reinforced democratic ideals.

²⁷ Harris, *Democracy and the Rule of Law in Classical Athens*, 102

²⁸ Johnstone, *Disputes and Democracy*, 37

²⁹ *ibid.*, 44

³⁰ *ibid.*, 61

³¹ *ibid.*, 61

³² Josiah Ober, "Power and Oratory in Democratic Athens: Demosthenes 21, Against Meidias," in *Persuasion: Greek Rhetoric in Action* ed. I Worthington (London and New York, Routledge: 1994): 89

Third Party: Role of the Juror

Rhetoric had a significant impact on democracy because it appealed to the jurors' sense of Athenian identity; therefore, it is important to understand the critical role of the juror in ancient Athenian law-courts. Jurors were an important third party that transformed a dispute into a legal case.³³ Six thousand *dikastai*, or jurors, were selected annually by lot.³⁴ These *dikastai* were all male citizens over the age of thirty.³⁵ A typical jury could range from hundreds to thousands of jurors.³⁶ All jurors swore the *dikastic* oath, promising to uphold Athenian laws.³⁷ These jurors were compensated for their time with a payment of half a drachma daily (for context, a skilled man's pay for employment was one drachma a day).³⁸ Due to the randomness of the selection of jurors, a jury was made up of ordinary men who represented the Athenian *demos*.³⁹ Jurors possessed enormous power: the ordinary Athenian citizens who made up the jury often held the fate of wealthy litigants in their hands.⁴⁰ To appeal to the jurors, Athenian litigants would present themselves as upstanding, moral citizens with democratic ideals. In deciding cases, jurors were not limited to simply upholding the laws, but were asked to consider the greater social impact of litigants' acts on the Athenian *demos*. The anonymous voting system of the jurors reinforced Athenian democracy because it limited the influence of wealthy litigants on the jurors.⁴¹ David Cohen argues that jurors did not decide cases based on "technical definitions but on the common understandings of the ordinary citizens entrusted with the task

³³ Johnstone, *Disputes and Democracy*, 20

³⁴ Christ, *The Litigious Athenian*, 19

³⁵ *ibid.*, 19

³⁶ *ibid.*, 19

³⁷ Johnstone, *Disputes and Democracy*, 33

³⁸ Christ, *The Litigious Athenian*, 19

³⁹ *ibid.*, 20

⁴⁰ Ober, "Power and Oratory," 88

⁴¹ Johnstone, *Disputes and Democracy*, 105

of judgement".⁴² Athenian democratic values impacted the decision of the jurors as they worked to protect the best interest of the *demos*: they made judgements based on morality and Athenian democratic customs to determine what is right.⁴³

What is rhetoric?

To properly analyze and understand the significance of rhetoric in relation to democracy, a definition of 'rhetoric' in ancient Athens must be established. Rhetoric in ancient Athens could be viewed as straightforward, as outlined in a basic definition of rhetoric offered by Plato as "persuasive speech in a public forum".⁴⁴ In his *Art of Rhetoric*, Aristotle postulates that rhetoric is an art, or *technê*.⁴⁵ Carawan defines *rhetorike* as the ability to "persuade our audience that the issue we raise is paramount, and then to convince them to take our side."⁴⁶ It is important to distinguish rhetoric from general oratory or all forms of public speech: Plato coined specific terms for oratory, *rhêtoreia*, and *rhêtorikê*, or rhetoric.⁴⁷ Historian Edward Shiappa provides a useful distinction between these two terms: "oratory was the product of the rhetor, and rhetoric was the art or skill of the rhetor."⁴⁸ To understand rhetoric in ancient Athens, it is also important to understand why and how rhetoric was used. Rhetoric was based upon a

strategic appeal to the jurors' democratic ideological compass. Carawan analyzes Max Weber's pattern of legal reasoning, determining that Athenian rhetoric is a form of what Weber identifies as substantive reasoning: "a more direct reckoning of the intrinsic values and interests of the community".⁴⁹ Rhetoric was a way to directly appeal to the jurors' devotion to Athenian democracy and the ideologies and values it entailed.

Legal arguments contain specific structural similarities in which to articulate rhetorical arguments. Carawan notes two types of arguments that Aristotle describes: the non-technical argument, the *atechnoi*, which does not follow a stylistic format of reasoning and is based upon witness testimony and the laws themselves, and the technical argument, the *entechnoi*, which is "reasoning from probability and the patterns of human experience".⁵⁰ Historian Steven Usher identifies four formal divisions of forensic rhetoric: the *prooemiium*, the narrative, the proof, and the epilogue. In the *prooemiium*, litigants would introduce themselves to the jury and attempt to win the jurors over with flattery and claims of amateurism.⁵¹ For example, in Lysias' *Against Simon*, Lysias begins his speech by flattering the jury: "Now if it were any other court that was to make a decision upon me, I should be terrified....but as it is before you that I appear, I hope to obtain justice."⁵² In the narrative, the prosecutor would provide a legal narrative and the defendant would provide an *anti-narrative* or a *counter-narrative*, as described below.⁵³ The

⁴² David Cohen, *Law, Violence, and Community in Classical Athens* (Cambridge: Cambridge University Press, 1995): 178

⁴³ Christ, *The Litigious Athenian*, 41

⁴⁴ James D. Williams, *An Introduction to Classical Rhetoric: Essential Readings* (New York, Wiley-Blackwell: 2009): 9

⁴⁵ Aristotle, *Rhetoric*. Translated by W. Rhys Roberts. (New York: Modern Library, 1954): 1, as cited in Williams, *An Introduction to Classical Rhetoric*, 9

⁴⁶ Carawan, *Rhetoric and the Law of Draco*, 5

⁴⁷ Williams, *An Introduction to Classical Rhetoric*, 10

⁴⁸ Edward Shiappa, *Protagoras and logos: A study in Greek Philosophy and Rhetoric*. (Columbia, SC: University of South Carolina Press, 2003): 41

⁴⁹ Carawan, *Rhetoric and the Law of Draco*, 27

⁵⁰ *ibid.*, 21

⁵¹ Stephen Usher, *Greek Oratory: Tradition and Originality*. (New York, Oxford University Press: 1999): 22

⁵² Lysias, "Against Simon" trans. W.R.M. Lamb. *Perseus Digital Database*. (Cambridge: Harvard University Press, 1930), 3.2

⁵³ Usher, *Greek Oratory*, 23

third division is the proof, where litigants would present witnesses, arguments from probability, and any evidence to substantiate their claim.⁵⁴ An example of convincing proof is found in *Against Conon for Battery*, in which Ariston includes the deposition of his surgeon – who testified about the extent of Ariston’s injuries – as evidence of Conon’s assault of him. While the surgeon’s deposition does not remain in the remaining speeches of forensic rhetoric, Ariston references this testimony. From Ariston’s reference to the surgeon’s testimony, it becomes apparent that the surgeon testified to the “great agony” that he was in and that Ariston “should have died of internal suppuration.”⁵⁵ This example of proof reveals how litigants could utilize the structure of forensic rhetoric to persuade the jury. Lastly, the epilogue was the formal division of forensic rhetoric in which the litigant would reiterate his stance and make an emotional appeal referencing their character and contribution to the state to win the favour of the jury.⁵⁶ Lysias’ *Against Simon* again provides an example, as he concludes his speech with reference to his contribution to the state: “give your vote for justice and do not suffer me to be unjustly ejected from my native land, for which I have braved many dangers and performed many public services: no harm have I ever brought upon that land, nor has any of my ancestors; nay, many are the benefits that we have brought her.”⁵⁷ This example illustrates how litigants would appeal to the jurors at the conclusion of their speech. These formal divisions of rhetoric help us to understand how rhetorical arguments were presented by Athenian litigants.

⁵⁴ *ibid.*, 24

⁵⁵ Demosthenes, “Against Conon for Battery,” trans. Norman W. DeWitt. *Perseus Digital Database*. (Cambridge: Harvard University Press, 1949), 54.12

⁵⁶ Usher, *Greek Oratory*, 25

⁵⁷ Lysias, “Against Simon,” 3.47

Types of Rhetorical Arguments

The various arguments that litigants use demonstrate the extent to which rhetoric was democratic. One important rhetorical device involved the telling of a legal narrative. Johnstone distinguishes three key aspects that impact how legal narratives were deployed by litigants: “the distinctive role of the prosecutor, the sharply adversarial context, and the presence of a mass audience of jurors”.⁵⁸ By choosing to pursue the legal case, the prosecutor had to argue his case within the narrative of the crime he was accusing the defendant of committing.⁵⁹ First, the prosecutor would identify the crime that was committed by the defendant, often identifying this breach of law as instigating his decision to bring the suit.⁶⁰ In *Against Conon for Battery*, Ariston brings a *dike aikeias* – a private action for battery – against Conon.⁶¹ At the outset of Ariston’s argument, he states that he is only in court because the illegal actions committed by Conon drove him to litigation.⁶² Arguing that the defendant’s action was the reason for litigation is a tactic used by the prosecutor to shift the focus onto the defendant and away from the fact that the prosecutor transformed the dispute into a legal case.⁶³ Johnstone argues that the prosecutor, by choosing to pursue a legal case, was prepared and often wanted to present his case in such a narrow manner.⁶⁴ However, that was not always the case. In *Against Conon for Battery*, Ariston situates the legal case within the grander narrative of the dispute between himself and Conon.⁶⁵ However, following a typical prosecutor’s legal narrative, Ariston allows the

⁵⁸ Johnstone, *Disputes and Democracy*, 49

⁵⁹ *ibid.*, 79

⁶⁰ Johnstone, *Disputes and Democracy*, 49

⁶¹ Christopher Carey, *Trials from Classical Athens* (New York, Routledge: 1997): 78

⁶² Demosthenes, “Against Conon for Battery,” 54.1

⁶³ Johnstone, *Disputes and Democracy*, 49

⁶⁴ *ibid.*, 49

⁶⁵ Carey, *Trials from Classical Athens*, 79

dispute between Conon and himself to be simply a backstory to the issue at hand, which he gives priority in his argument.⁶⁶ Next, the prosecutor contrasts the character of the defendant with his own character, or in a public case, contrasts the defendant with the character of the *demos*.⁶⁷ In Ariston's case, the prosecutor contrasts his own modest, decent character with what he characterizes as the drunken, violent character of Conon, which Ariston stresses several times in his speech.⁶⁸ The final key aspect that Johnstone distinguishes is the added element of the jurors.⁶⁹ The introduction to the dispute of this third party, who often did not know the litigants, meant that litigants would need to establish trust between themselves and the jurors.⁷⁰ Litigants would use the rhetorical device of providing a convincing narrative, and in doing so appeal to the jury's democratic ideological compass, in an effort to gain their favour.

In response to the prosecutor's legal story, the defendant was not confined to a legal narrative but could use a broader narrative to defend himself against the charge. Johnstone identifies two customary defenses used by the Athenian defendant: the anti-narrative and the counter-narrative.⁷¹ In an anti-narrative, the defendant would typically dismantle the prosecutor's argument to show that it was illogical and improbable.⁷² In a counter-narrative, the defendant would attempt to provide a more compelling narrative than the prosecutor's to win the favour of the jury.⁷³ Providing a counter-narrative was often the preferred choice of argument because the legal

⁶⁶ Johnstone, *Disputes and Democracy*, 50

⁶⁷ *ibid.*, 52

⁶⁸ Demosthenes, "Against Conon for Battery," 54.3, 54.4, 54.5, 54.7

⁶⁹ Johnstone, *Disputes and Democracy*, 49

⁷⁰ *ibid.*, 50

⁷¹ *ibid.*, 54

⁷² *ibid.*, 54

⁷³ *ibid.*, 54

system was inherently adversarial, and to win a case, a defendant often had to conform to the combative nature of this system.⁷⁴ The defendant would often demonstrate that he was the victim, as Lysias does in *Lysias 3 – Against Simon*. Lysias argues that the assault charge was absurd, and that Simon was the one who should be prosecuted: Simon was acting "as though he were the victim, relating to acts for which he should himself be punished."⁷⁵ Lysias is providing a counter-narrative that demonstrates Simon instigated the assault with deplorable acts of violence, hoping to win over the jury with an alternative, more compelling narrative. Lysias also contrasts his good character with Simon's immorality by describing how both parties tried to win the affection of a young man: "While I looked to win his affection by kindness, this man thought by outrage and defiance of the law to compel him to accede to his wishes".⁷⁶ The other type of counter-narrative is a denial of the crime through narrative, demonstrating that there was no crime but that the prosecutor had ulterior motives for bringing charges, such as sycophancy.⁷⁷ Often, the defendant would reference the prosecutors' vexatious litigation to present themselves in a less quarrelsome light. In Lysias' *Against Simon*, Lysias deploys this rhetorical tactic: "but my attitude to quarrels over matters like his is such that, though I have suffered...I could not bring myself to take legal action against him."⁷⁸ The defendants' use of narrative to prove their case reveals the importance of appearing as the agreeable party who would never seek legal retribution nor involve the state in such a dispute, as an appeal to the jurors' corporate identity and their passion for equality.

⁷⁴ *ibid.*, 56

⁷⁵ Lysias, "Against Simon," 3.1

⁷⁶ Lysias, "Against Simon," 3.5

⁷⁷ Johnstone, *Disputes and Democracy*, 57

⁷⁸ Lysias, "Against Simon," 3.40

Despite the various methods in which prosecutors and defendants presented their narratives, all litigants used rhetoric to appeal to the jurors' sense of Athenian identity, which reinforced democratic ideology.⁷⁹ Although using different tools, both parties to a case would portray themselves as innocent, moral, law-abiding citizens who actively serve the state. Simultaneously, both litigants characterize their opponents as people who are destructive to the *demos* and represent the antithesis of a good Athenian.⁸⁰ This use of rhetoric aligned the litigants with that of the democratic jurors, reiterating and instilling important Athenian democratic ideals expected of a model Athenian citizen.

Often, the framing of a person's character as good and noble was used to contrast the litigant's flawed character – an important strategy used by Athenian litigants that provides further insight into democratic values. To align their interests with that of the jurors (and in doing so, the *demos*), litigants would often make reference to their public service or liturgies.⁸¹ Ober argues that the strategy of referencing liturgies was used to establish that the litigant was “a useful citizen who conformed to standard democratic norms of belief and behaviour.”⁸² Defendants would reference their liturgies as evidence of their good character in order to argue that someone of such high moral character would never commit the crime of which they are accused.⁸³ Johnstone notes that “a significant unintended consequence of such appeals was the reproduction of the Athenians' corporate identity”.⁸⁴ Liturgies themselves could be considered democratic because they

⁷⁹ Josiah Ober, “Gadfly on Trial: Socrates as Citizen and Social Critic,” *The Stoa: a consortium for electronic publication in the humanities* (July 31, 2003): 2

⁸⁰ Ober, “Gadfly on Trial,” 2

⁸¹ Johnstone, *Disputes and Democracy*, 94

⁸² Ober, “Gadfly on Trial,” 2

⁸³ Johnstone, *Disputes and Democracy*, 96

⁸⁴ *ibid.*, 94

financially supported the *demos* and allowed for an egalitarian regime.⁸⁵ Often accompanying an argument from public service was the appeal for *charis*, or gratitude, which was an integral aspect of the ancient Athenian ideology of reciprocity.⁸⁶ An appeal for *charis* is differentiated from the argument about public service by Johnstone, who states that *charis* was strictly an appeal to build a relationship between himself and the jurors, while an argument from public service was contrasted with the prosecutors' argument.⁸⁷ Defendants would also incorporate appeals for *charis* in claims about their piety to Athenian democracy.⁸⁸ Reference to *charis* was an explicit reference to democratic values; *charis* was a characteristic that was apparent in most social relationships, as Athenian friendships were based upon reciprocity.⁸⁹ Johnstone argues that appeals for *charis* reinforce Athenian democracy because they force the jurors to consider the collective interest of the *demos*.⁹⁰ After demonstrating their own high moral character, litigants would then contrast that to their immoral character, identifying them as having a lower standing in society: *poneroi*.⁹¹ In *Against Conon for Battery*, Ariston references the lower standing of Conon and his comrades, referring to them as “down-and-outs”⁹² who “commit the sort of acts which decent people find it deeply shameful even to speak of, let alone do.”⁹³ By presenting himself as a decent person, incapable of even discussing the acts Conon committed, Ariston is simultaneously demonstrating his high moral character while denigrating Conon.

⁸⁵ *ibid.*, 107

⁸⁶ *ibid.*, 107

⁸⁷ *ibid.*, 101

⁸⁸ *ibid.*, 101

⁸⁹ Matthew R. Christ, “Helping Behaviour in Classical Athens,” *Phoenix* 64 (2010): 260

⁹⁰ Johnstone, *Disputes and Democracy*, 115

⁹¹ Christ, *The Litigious Athenian*, 78

⁹² Demosthenes, “Against Conon for Battery,” 54.14

⁹³ *ibid.*, 54.17

Arguments that showed one's own moral character, through references to state service and appeals for gratitude or *charis*, demonstrate the value of being an upstanding citizen and the importance of collective interests in ancient Athens. Portraying one's opponent as immoral to gain the favour of the jury reveals the importance of morality and the intolerance for behaviour that opposed Athenian democratic values.

Rhetorical arguments of pity, in which the defendant would acquiesce to the overwhelming power of the *demos* and beg the jurors to vote in their favour, also reinforced democratic ideology.⁹⁴ In the surviving texts of forensic rhetoric, approximately fifty percent of defense speeches included rhetorical arguments of pity.⁹⁵ As Demosthenes notes, a democratic value inherent in ancient Athenian society was that those who were "powerless and helpless deserved pity: children and women, the old and the poor, the generally unfortunate."⁹⁶ With pity being an important civic value in Athens, prosecutors often were unable to respond to arguments seeking pity without distinguishing their own values as separate from the collective *demos*.⁹⁷ To avoid this distinction, prosecutors would instead offer a hierarchy of Athenian values, demonstrating that the civic value placed on the law overrode the civic value of pity.⁹⁸ Defendants would often portray themselves as helpless, arguing that if they were found guilty, their *oikos* would be destroyed.⁹⁹ Often this argument included the dramatic demonstration of parading their family, especially their children, in front of the jury.¹⁰⁰ This was, ostensibly, another appeal to democratic values of reflected within the

⁹⁴ Johnstone, *Disputes and Democracy*, 110

⁹⁵ *ibid.*, 111

⁹⁶ Johnstone, *Disputes and Democracy*, 111

⁹⁷ *ibid.*, 112

⁹⁸ *ibid.*, 113

⁹⁹ *ibid.*, 112

¹⁰⁰ *ibid.*, 118

concentric circles of Athenian democratic ritualized life, the *oikos* being an inherent part of the Athenian community.¹⁰¹ As defendants become subservient to the jurors, they are respecting the power of the *demos*. This is especially significant because litigants were often from the upper class while jurors were made up of the masses, and appeals of pity led to a sense of equality among the socially stratified peoples.¹⁰² Lysias' *Against Simon* provides an example of a rhetorical argument of pity: "so in justice I should be pitied by you and other men, not only if any of the things Simon wants were to happen to me but also because I have been forced as a result of events like this to face a trial of this nature."¹⁰³ Rhetorical appeals of pity reinforce democratic ideology "both by leveling individuals and by highlighting the collective power of the people".¹⁰⁴

A type of argument that demonstrated the importance of communal interest and moral character is the rhetorical argument from probability. The argument from probability, or the *enthymeme*, is an argument based not only on facts but on what facts were probable based on the most likely scenario.¹⁰⁵ This rhetorical argument places greater importance on motive and intentions than the law itself.¹⁰⁶ An example of an argument from probability is found in *Lysias, Against Simon*, when Lysias uses deductive reasoning skills to ascertain that Simon could not have afforded to hire the young boy that the two litigants' dispute was over, as the price of the boy was higher than Simon's entire property value of 250 drachmae.¹⁰⁷ This argument from probability was used by Lysias to poke holes in his opponent's argument, so that the jurors would

¹⁰¹ *ibid.*, 111

¹⁰² *ibid.*, 123

¹⁰³ Lysias, "Against Simon," 3.48

¹⁰⁴ Johnstone, *Disputes and Democracy*, 123

¹⁰⁵ Carawan, *Rhetoric and the Law of Draco*, 20

¹⁰⁶ *ibid.*, 23

¹⁰⁷ Lysias, "Against Simon," 3.24

find his own argument more convincing. Arguments from probability could also include a litigant's use of physical proof to contradict the purely rhetorical argument of their opponent. An example of this is provided in *Demosthenes 55, Against Callicles*, in which the son of Teisias used an argument from probability to prove that his father could not have been guilty of creating a watercourse. The son of Teisias states that his opponent could have easily proved that his father was guilty because there would have been evidence of a flood had it not been a false accusation. His opponent "ought to have satisfied all men that there was a watercourse, that you might have shown, not by your mere statement, as is the case now, but on a basis of fact, that my father was guilty of wrongdoing."¹⁰⁸ His argument from probability is strengthened when he states that there are trees planted and his ancestors buried in the ground where his opponent is accusing him of having created a watercourse. He proves that this is unlikely: "yet who would think of planting these in a watercourse? Nobody, surely. Again, who would think of burying his own ancestors there?"¹⁰⁹ These arguments from probability demonstrate that the most likely scenario, given the facts, would be the scenario established in the son of Teisias's account. These examples demonstrate that arguments from probability were useful rhetorical devices that a litigant could use to gain the favour of the jury. In "Gadfly on Trial: Socrates as Citizen and Social Critic," Josiah Ober wrote that litigants often used an argument from probability to create a dichotomy between their longstanding character and the character the prosecutor attributed to the defendant in their narrative.¹¹⁰ This argument of probability

¹⁰⁸ Demosthenes, "Against Callicles," trans. Norman W. DeWitt. *Perseus Digital Database*. (Cambridge: Harvard University Press, 1949), 55.6

¹⁰⁹ Demosthenes, "Against Callicles," 55.13

¹¹⁰ Ober, "Gadfly on Trial," 3

would lead the jury to wonder why a person who consistently acted to benefit the state would ever behave otherwise.¹¹¹ Arguments from probability could be utilized by litigants to convince the jurors of their moral, democratic nature, which was inconsistent with their opponent's claims.

A Case Study of Rhetoric: Plato's *Apology*

An important speech that reveals the value of rhetorical appeals to the jurors' sense of democratic identity, which simultaneously reveals flaws in the use of rhetoric, is Plato's *Apology*. In "Gadfly on Trial: Socrates as Citizen and Social Critic," Josiah Ober analyzes Plato's *Apology*, which he refers to as a "demonstration of an "alternative" and openly critical use of the ordinarily democratic genre of courtroom rhetoric."¹¹² This complex use of rhetoric in Plato's *Apology* outlines the rhetorical devices used by litigants and the severe consequences of not appealing to the jurors' democratic nature. Plato's character Socrates begins with a traditional *prooemium*, in which he claims amateurism by stating that he is "not in the least a clever speaker," but rather a truthful one.¹¹³ He strengthens this claim of amateurism by informing the jury that "this is the first time I have come before the court, although I am seventy years old; I am therefore an utter foreigner to the manner of speech here."¹¹⁴ Socrates then deviates from traditional pandering to the jurors, arguing that they have previously been persuaded "by means of envy and slander," falling for the persuasive rhetoric of past litigants.¹¹⁵ He informs the jurors that his speech will attempt to "remove from you this prejudice which you have been for so long a time acquiring,"¹¹⁶ disregarding completely the

¹¹¹ Johnstone, *Disputes and Democracy*, 97

¹¹² Ober, "Gadfly on Trial," 3

¹¹³ Plato, "Apology," 17b

¹¹⁴ Plato, "Apology," 17d

¹¹⁵ Plato, "Apology," 18d

¹¹⁶ Plato, "Apology," 19a

technique of flattering the jurors and instead choosing to challenge them. In his speech, Socrates uses the rhetorical technique of painting one's opponent in a negative light: "He says I am a wrongdoer because I corrupt the youth. But...Meletus is a wrongdoer, because he jokes in earnest, lightly involving people in a lawsuit, pretending to be zealous and concerned about things or which he never cared at all."¹¹⁷ This statement not only reveals to the jurors that his opponent rushes into frivolous litigation, but also that he "brought this indictment in a spirit of violence and unrestraint and rashness," a rhetorical argument from sycophancy.¹¹⁸ Socrates asks the jurors to "teach and advise one another; those among you who have heard me in conversation—there are many (*polloi*) of you—inform each other."¹¹⁹ Ober contends that Socrates changes the connotation of "*hoi polloi*," denoting the citizens, from positive to negative.¹²⁰ Traditionally, *hoi polloi* has a positive connotation as it represents the *demos*, a democratic body. However, Socrates presents it in a negative light, contending *hoi polloi* were wrong in their shared opinion of Socrates' immorality.¹²¹ To dispute the argument that he was corrupting the youth, Socrates used an argument from probability to demonstrate that his opponent's narrative was not believable. He uses an analogy as an argument from probability, contending that horses can only be trained by a selected few, stressing that the majority of people would only harm the horses.¹²² Similarly, the youth could only be taught by a selected few, while *hoi polloi* would harm the youth.¹²³ However, this argument from probability is actually counter to all principles of rhetoric, which

¹¹⁷ Plato, "Apology," 24c

¹¹⁸ Plato, "Apology," 26e

¹¹⁹ Plato, "Apology," 19d

¹²⁰ Ober, "Gadfly on Trial," 3

¹²¹ Ober, "Gadfly on Trial," 3

¹²² Plato, "Apology," 25b

¹²³ Plato, "Apology," 25b

involve aligning oneself with the jury and segregating the opponent. Socrates' argument countered the traditional methods of rhetoric because he was insulting the Athenian citizens, and aligning his opponents with the jurors.¹²⁴ He followed the traditional rhetorical argument of informing the jurors of one's contribution to the state by noting his military service.¹²⁵ However, as Ober reveals, Socrates' argument from state service was atypical, as he continued to state that he would abandon his service to the state in pursuit of philosophy because that was what the gods wanted.¹²⁶ He further twisted the argument from state service by arguing that he assisted his fellow citizens by helping them see the flaws in their system. However, this explicitly does the state a disservice, as it disparages Athens.¹²⁷ While a litigant would typically use an argument from pity, Socrates scoffs at such an argument, claiming they "make(s) the city ridiculous,"¹²⁸ urging jurors to break their dikastic oath.¹²⁹ Socrates is again distinguishing himself from the *demos* by claiming that an activity citizens regularly take part in is "neither honorable nor right nor pious."¹³⁰ As Ober identifies, Socrates adhered to a different standard of behaviour that is "far removed from the democratic notion of citizen dignity as protection against verbal or physical insult by the powerful".¹³¹ The jurors' decision to persecute Socrates demonstrates that the jurors, and therefore the greater *demos*, "regarded persuasive public speeches and social control as essential bulwarks of the democratic order."¹³² *Apology* reveals criticisms that existed of rhetoric; however, it demonstrates the importance of

¹²⁴ Ober, "Gadfly on Trial," 3

¹²⁵ Plato, "Apology," 28e

¹²⁶ Plato, "Apology," 28e

¹²⁷ *ibid.*, 30e-31-a

¹²⁸ *ibid.*, 35b

¹²⁹ *ibid.*, 35c

¹³⁰ *ibid.*, 35c

¹³¹ Ober, "Gadfly on Trial," 3

¹³² *ibid.*, 3

democratic value in influencing jurors' decisions, and how traditional uses of rhetoric re-instilled and strengthened democracy.

Weaknesses and Strengths of Rhetoric

While the use of rhetoric reinforced democratic ideology, the limited ability to practise rhetoric reveals a weakness of the Athenian democracy. Socioeconomic standing impacted a litigant's ability to use the legal system to his advantage. The level of education a citizen possessed impacted their ability to litigate, as the majority of the laws were written and it was the litigant's responsibility to know the laws well enough to bring a case and to regurgitate the laws in court.¹³³ The formal education on rhetoric, as well as more general education, was provided by the Sophists.¹³⁴ In any discussion about rhetoric, an introduction to the Sophists is imperative as they shaped how legal arguments were formed in ancient Athens.¹³⁵ For litigious Athenians, learning the art of rhetoric was a better option than paying a *logographos* every time they needed a law-court speech.¹³⁶ However, advanced rhetorical training was expensive, and the majority of citizens could not afford more than a couple lessons with a Sophist.¹³⁷ Sophistical instruction highlights the socioeconomic stratification of Athenian citizenry and the inequalities of the Athenian legal system. Sophists also wrote instructional pamphlets and texts, called *techne*, to sell, however they related to specific arguments and cases and were therefore not general enough for litigants to properly apply.¹³⁸ Those pamphlets and texts reflect the importance of Athenian values, which were also demonstrated in what the Sophists chose to teach; that is best exemplified in the

evolving definition of *aretê* they taught.¹³⁹ Sophists originally claimed to be able to teach excellence, or *aretê*, in their lessons on the art of rhetoric.¹⁴⁰ However, as democratic ideals permeated all aspects of Athenian life, Sophists expanded the definition of *aretê* to include not only excellence, but the ideals of civic duty: a truly excellent man must adhere to democratic ideology.¹⁴¹ While Sophists claimed to be teaching Athenians how to be civic-minded individuals, Usher perceptively argues that there was a difference between "being 'good' and being 'good at something.'"¹⁴² While this idea introduced by Usher reinforces the Athenian hesitancy to obtain formal legal training, rhetorical instruction had valuable democratic origins. Rhetorical training itself was thus influenced by democratic ideals, and the teaching of rhetoric instilled democratic values in the citizens who trained with the Sophists.

Rhetoric often carried more negative connotations, which both ancient philosophers and modern historians have acknowledged. In *An Introduction to Classical Rhetoric*, historian James D. Williams acknowledges that rhetoric was considered to be "a form of pandering that influenced the masses by telling them what they wanted to hear," a point of view that he attributes to Plato.¹⁴³ In Plato's *Apology*, Socrates begins his speech by recognizing the convincing nature of rhetorical arguments: "for my part, almost forgot my own identity, so persuasively did they talk; and yet there is hardly a word of truth in what they have said."¹⁴⁴ This critique of rhetoric by the Athenians that is echoed in Plato's *Apology* was based on a widespread fear that clever

¹³³ Christ, *The Litigious Athenian*, 17

¹³⁴ Williams, *An Introduction to Classical Rhetoric*, 19

¹³⁵ Christ, *The Litigious Athenian*, 16

¹³⁶ Williams, *An Introduction to Classical Rhetoric*, 23

¹³⁷ *ibid.*, 23

¹³⁸ *ibid.*, 23

¹³⁹ *ibid.*, 23

¹⁴⁰ *ibid.*, 24

¹⁴¹ *ibid.*, 24

¹⁴² Usher, *Greek Oratory*, 5

¹⁴³ Williams, *An Introduction to Classical Rhetoric*, 9

¹⁴⁴ Plato, "Apology," trans. Harold North Fowler. *Perseus Digital Database* (Cambridge: Harvard University Press, 1966), 17a

litigants could exploit the legal system, using rhetoric to win cases despite their lack of legal foundation.¹⁴⁵ Historian Matthew Christ states that the use of rhetoric is often cynically viewed as an attempt to “make the weaker argument appear the stronger.”¹⁴⁶ The fear of exploitation by sycophants was prevalent among Athenian citizens. A straightforward definition of the sycophant is debated among scholars, but all reach the conclusion that the sycophant was a litigant who “did not have a good case, that his case depended on improbable assumptions, empty assertions or over-meticulous quibbling”.¹⁴⁷ Osborne argues that claims of sycophancy were a rhetorical device used by litigants to spread doubt amongst the jurors of their opponents’ intentions.¹⁴⁸ In *Against Simon*, Lysias hints at sycophancy by noting how Simon did not bring this case for an extended period of time, only initiating the case when Lysias was in a vulnerable position.¹⁴⁹ This reference to sycophancy was a strategic technique used to call into question Simon’s motives for bringing the case, a technique often employed by litigants to influence the jury based on their adherence to democratic ideals. Christ postulates that sycophancy was a term chosen by litigants with a negative connotation in order to describe their opponents’ undemocratic behaviour,¹⁵⁰ which Osborne supports by stating that a sycophant’s “self-interest threatens the proper working of the state.”¹⁵¹ The example of the sycophant demonstrates how fear of exploitation of the

¹⁴⁵ Williams, *An Introduction to Classical Rhetoric*, 9

¹⁴⁶ Christ, *The Litigious Athenian*, 16

¹⁴⁷ Robin Osborne, “Vexatious Litigation in Classical Athens,” in *Athens and Athenian Democracy* (Cambridge: 2010), 216

¹⁴⁸ Osborne, “Vexatious Litigation in Classical Athens,” 216

¹⁴⁹ Lysias, “Against Simon,” 3.20

¹⁵⁰ Christ, *The Litigious Athenian*, 16

¹⁵¹ Osborne, “Vexatious Litigation in Classical Athens,” 227

legal system was used by litigants to establish their own democratic value and to contrast it with their undemocratic, sycophant opponent. The possibility of the masses to be persuaded by rhetoric represents an inherent weakness in the Athenian democratic system.

Furthermore, the open texture of the legal system that is applauded by Demosthenes as egalitarian is often criticized by others for creating ambiguities in the laws themselves, therefore making the legal system easy to manipulate and exploit.¹⁵² The fear of exploitation of the legal system permeated many facets of Athenian life, as exemplified by Aristophanes’ *The Assemblywomen*. Aristophanes’ play – in which women overthrow the Athenian legal system by dressing as males and convincing the Assembly to hand over power of Athens to women – provides a satirical example of how the legal system, and thus Athenian democracy, could be easily exploited.¹⁵³ The protagonist of the play, Praxagora, exclaims that the death of the legal system is a blessing because it will put an end to corruption, specifically faked evidence and informing.¹⁵⁴ Aristophanes’ *The Assemblywomen* demonstrates the pervasive fear of exploitation that existed in Athenian society.

While fear of corruption was widespread, evidence of corruption of the Athenian legal system was rare. Similarly, while claims of sycophancy were widespread, the static nature of the legal system throughout the classical period demonstrated the remarkable stability of the legal system.¹⁵⁵ Furthermore, important checks were established to prevent exploitation: 1) court fees were established, 2) there were statutory penalties for unsuccessful

¹⁵² Osborne, “Law in Action in Classical Athens,” 177

¹⁵³ D. Barratt and A. Sommerstein, *The Assemblywomen*. “The Birds and Other Plays by Aristophanes” (London: Penguin, 2003)

¹⁵⁴ Barratt and Sommerstein, *The Assemblywomen*, 585-590

¹⁵⁵ Williams, *An Introduction to Classical Rhetoric*, 19

litigants, and 3) legal action was available against abuse.¹⁵⁶ Court fees prevented frivolous litigation, while simultaneously strengthening the democratic State by providing it with a source of revenue.¹⁵⁷ Statutory penalties also pre-empted litigants from bringing frivolous litigation to the courts. In public cases, a prosecutor who did not receive one-fifth of the votes of the jurors, or dropped his suit, had to pay the State one thousand drachmas.¹⁵⁸ In private cases, prosecutors often had to pay the defendant an *epobelia*, which was worth one-sixth of the value of the prosecutor's claim.¹⁵⁹ Lastly, if a litigant felt he was prosecuted by a frivolous or sycophantic litigant, there were legal options available to him, which would cause a frivolous litigant to think twice before bringing a case to the court.¹⁶⁰ These three legal checks demonstrated that abuse of the legal system was not tolerated, and abuse had been thoughtfully pre-empted by the courts.

To counter the potential for abuse of rhetoric and law was *eunoia*, which Johnstone defines as meaning "anything from goodwill to partisanship."¹⁶¹ *Eunoia* is an important ideal that demonstrates the link between democratic values and rhetoric and law.¹⁶² *Eunoia* was considered to be a safeguard that could be referenced by litigants, specifically defendants, to remind the jurors of their duty to listen to both sides of a legal dispute openly and fairly.¹⁶³ The litigant's appeal to a jury to listen to a case with *eunoia* was a direct appeal to the jurors to act in accordance with Athenian democratic ideals of equality and fairness. Johnstone argues that, in spite of the great socioeconomic stratification in ancient

Athens, it was an impressive feat that economic standing only slightly impacted the democratic regime.¹⁶⁴ The prevalence of concepts such as *eunoia* demonstrate that Athenian citizens were aware of the potential for persuasion through the use of rhetorical arguments, and had safeguards in place to prevent the jurors from falling prey to persuasive tactics that were not substantiated with evidence.

Although inequalities could never be completely eradicated, Josiah Ober argues that rhetoric created a social contract that helped to mediate the differences between the elite and the masses.¹⁶⁵ Ober argues that the litigation and rhetoric created a symbiotic relationship between the elite and the masses, because elite litigants would have to appeal to jurors who belonged to the masses.¹⁶⁶ Elite Athenians used rhetoric to appeal to the democratic masses to win the favour of the jury, and in doing so, reinforced democratic ideals. Elites used the arguments outlined above to demonstrate their upstanding character, and to believably contend that they are aligned with democratic ideals, they were forced to behave according to Athenian democratic ideology. This social contract between the elite and the masses also demonstrates the overall strength of the *demos*: "acting collectively, in defence of the laws and customs of the democratic order, the *demos* was indeed powerful enough to force the elite to recognize the dignity of each citizen, and powerful enough to discipline any of those who dared to step out of line".¹⁶⁷ Furthermore, Osborne notes that the rhetorical device of claiming sycophancy could prevent deviancy from democratic ideals; "sycophantic allegations were an important democratic mechanism of social regulation."

¹⁵⁶ Christ, *The Litigious Athenian*, 28-32

¹⁵⁷ *ibid.*, 28

¹⁵⁸ *ibid.*, 29

¹⁵⁹ *ibid.*, 29

¹⁶⁰ *ibid.*, 30

¹⁶¹ Johnstone, *Disputes and Democracy*, 61

¹⁶² *ibid.*, 61

¹⁶³ *ibid.*, 61

¹⁶⁴ Johnstone, *Disputes and Democracy*, 118

¹⁶⁵ Ober, "Power and Oratory," 88

¹⁶⁶ *ibid.*, 89

¹⁶⁷ *ibid.*, 100



Threats or claims of sycophancy provided an important check on the wealthy or vexatious litigants.¹⁶⁸ Rhetorical practice thus reveals that Athenian society was democratic to its core despite socioeconomic stratification, while also revealing how rhetoric reinforced democratic ideology among the elite and the masses.

An analysis of the elements that make up the Athenian legal system demonstrates that democratic ideals are at the centre of all aspects of Athenian life. Rhetorical arguments reveal how litigants appealed to the jurors' sense of Athenian identity, democratic values, and the corporate nature of society. The arguments made by rhetors demonstrate how highly Athenians value their corporate identity, equality, and morality. Although rhetoric reinforced and strengthened Athenian democratic values, it also revealed a critical weakness; the use of rhetoric to influence the jurors and their ability to sway the *demos* demonstrates the fragility of the Athenian democracy. The division between the elite litigants and the jurors who represented the masses becomes evident through a careful analysis of Athenian rhetoric. However, this relationship is more egalitarian than one would presume, as is evident in Ober's description of the social contract between the elite and the masses that rhetoric creates. While the shortcomings of democracy in law are demonstrated by the persuasive abilities of rhetoric, Athenian democracy was exemplified and reinforced through rhetoric.

¹⁶⁸ Osborne, "Vexatious Litigation in Classical Athens,"
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“Canadian-American Relations and the Case of Herbert Norman,” by Mariah Guta

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With the United States as one of the two superpowers during the Cold War, opposite the Soviet Union, Canada supported the Americans as their geographic and democratic neighbour. As the Cold War was arguably at its height during the 1950s, the Americans were keen to neutralize any Communist and Soviet threats. At any given time, these threats could manifest internally through subversion or externally through overt aggression. This neutralization had a direct effect on individuals residing in North America, as they were the targets of anti-Communist hunts and state-sponsored inquisitions, seen in the inquiry of Canadian and American citizens. Canadian diplomat Herbert Norman was caught in the crossfire of American and Canadian anti-Communism, and became an example of anti-Communism's implications for the individual. The Herbert Norman affair is an excellent case of the Canadian and American leadership overlooking wrong-doings and insults to preserve the status of their relationship.

During Norman's career in the Department of External Affairs, he had been suspected of being a Soviet spy by the American State Department, which was an extension of the American anti-Communist movement known as 'McCarthyism.' This McCarthyism spurred three different investigations into Norman's past and eventually drove him to suicide in April 1957. While the 1950s represented a time of economic prosperity and generally good political relations between Canada and the United States, the death of Herbert Norman highlighted important differences in how the two nations approached the Cold War challenge of domestic Communism. These differences include the overt anti-Communist techniques in the U.S., versus covert techniques in Canada. As significant and

troubling as it was, in the end, the Herbert Norman affair did little to upset Canadian-American relations in the long term.

E. Herbert Norman was the son of Canadian missionary parents who settled in Japan, where Norman was born and raised.¹ Norman spent the early years of his life in Japan, and then migrated back to Canada to pursue a Bachelor of Arts at the University of Toronto.² It was at the University of Toronto that he began running in socialist circles and was first exposed to Communist thought. To Norman, the transition from socialism to Communism was a logical progression, and during his time at Cambridge University in the early 1930s, he remained sympathetic to the Communist cause.³

Norman continued his career in academics with a fellowship at Harvard University where he pursued his graduate studies in Japanese history and was again drawn to Communist and Marxist thought.⁴ He then went on to Columbia University and completed a doctoral degree on the political and social problems of the Meiji Period in Japan at the Institute of Pacific Relations.⁵ This established Norman as an expert in Japanese history and is what led to him being hired on in the Tokyo legation of the Canadian Department of External Affairs (DEA) in the 1930s; he was then recalled with the attack on Pearl Harbor in 1941. Norman remained in Ottawa until the end of the war and was again sent back to Tokyo to be

¹ Donald Barry, "Cleared or covered up? The Department of External Affairs investigation of Herbert Norman, 1950-52," *International Journal*, 66 (2010): 1, <http://www.jstor.org/stable/27976076>, 149.

² Ibid.

³ John English, *The Worldly Years: The Life of Lester Pearson, Volume II: 1949-1972*, (Toronto: Random House of Canada Limited, 1992), 167.

⁴ Ibid, 168.

⁵ Barry, "Cleared or covered up?" 149.

involved with the American occupation of Japan.⁶ At this time in the late 1940s and early 1950s, Communism became the main threat to North America, and Norman fell under the suspicion of McCarthy, especially in light of his position in East Asia. Many other East Asian scholars and diplomats who, like Norman, had been involved with the Institute of Pacific Relations, were under suspicion by McCarthy witch-hunters because they were seen as too close to Communist China.⁷ This was a threat to American anti-Communists because Communism in any form, be it in China or the Soviet Union, was interpreted as a direct threat to American freedom and democracy. Thus, men in these sensitive positions were watched closely for any ties to the Communist Party.

This was quite possibly the worst time for Norman's ties to Communism to be investigated, as he had been since involved in Communist circles since his time at Cambridge, and many other East Asian scholars of similar background were under investigation. Though never a card-carrying member, Norman's association with the Communist Party was enough for the U.S. Federal Bureau of Investigation to flag him as a threat and to investigate him further.⁸ When his Communist ties from his time in university were revealed, Senator McCarthy, along with the FBI and the State Department concluded that Norman was a Soviet spy who had infiltrated the Canadian government and was only loyal to the Communist Party. The FBI and the State Department were especially suspicious of Norman because he tended to shield his past involvement in Communism to preserve his job in the Department of External Affairs.⁹

⁶ Charles Taylor, *Six Journeys: A Canadian Pattern*, (Toronto: House of Anansi Press Limited, 1977), 136.

⁷ Ibid, 137.

⁸ Ibid.

⁹ English, *The Worldly Years*, 170.

Whether Norman was a Soviet spy or not is a question that is still contested to this day. Immediately after his suicide, popular consensus was that Norman fell victim to McCarthyism's witch hunts that had filtered in from below the border, as was depicted in Sidney Katz's article published in *Maclean's* magazine. The article, "What Kind of a Man was Herbert Norman?" published September 28, 1957, not long after Norman's death in April, reviews Norman's life and death in an easily digestible format for the general public. Katz hypothesizes that due to a number of factors, including poor health, work stress, and a relatively passive personality, Norman's ability to hold strong during his interrogations is what ultimately led to his death.¹⁰ Katz's article deals less with the possibility that Norman was a Soviet spy, and instead addresses the questions of Canadian citizens who were wondering how they should feel toward the event.

Published almost thirty years after Norman's suicide, Roger Bowen authored a biography of Herbert Norman, *Innocence is Not Enough: The Life and Death of Herbert Norman* (1986). The title that Bowen chose for his book already suggests that Bowen did not think Norman was a Soviet agent; he wanted to commemorate Norman, as suggested by his preface, a poem by Carolyn Kizer, "The Death of a Public Servant: In Memoriam, Herbert Norman."¹¹ By consulting with Norman's friends, family, colleagues, RCMP files, and External Affairs documents, Bowen paints a portrait of Norman that aims to bring Norman's human characteristics back into focus. Bowen is convinced of Norman's

¹⁰ Sidney Katz, "What Kind of Man was Herbert Norman?" *Maclean's*, Sep 28, 1957. 22. Accessed March 9, 2016, <http://search.proquest.com/docview/1437816813?accountid=15090>, 83 and 90.

¹¹ Roger Bowen, *Innocence Is Not Enough: The Life and Death of Herbert Norman*, (Toronto: Douglas and McIntyre, 1986), 9.

innocence and states that this can be attributed to Norman's alleged openness when being questioned, his recruitment by the Department of External Affairs, and his liberally biased writings that appear later in his scholarly career.¹² Bowen's rendition of Norman's life reads as a sympathetic account of events, often using strong language like "the hell that awaited this victim [Norman],"¹³ and "personal agony that Herbert [was] forced to endure."¹⁴ He attributes Norman's changing loyalty to intellectual development, not to the protection of Communism.¹⁵ To Bowen, death was Norman's only option to end this slander and to protest American charges.

Published the same year, James Barros' *No Sense of Evil: Espionage, The Case of Herbert Norman* (1986) is the antithesis of *Innocence is Not Enough*. Barros' book is also a biography of Norman's life, but Barros argues that Norman was indeed a Soviet spy who slipped through the bureaucratic cracks of the Canadian government.¹⁶ Barros acknowledges that Norman was generally well-meaning, but that he only survived the U.S.'s subcommittee investigations during the 1950s because of Lester B. Pearson's protection.¹⁷ Here, it is clear to Barros, that Norman was not innocent because of the secrecy surrounding the External Affairs' alleged cover up of Norman's Soviet ties during the 1950s. Barros argues that this is still seen in the withholding of certain information by the Canadian government; if this information was accessible, he believes the Norman case would be resolved once and for all.¹⁸ Further, Barros argues that if he had access to the Soviet

archives, then he would be able to conclusively prove that Norman was working for the Soviets.¹⁹ Thus, Barros's argument that Norman was a Soviet agent cannot be conclusively proven because of a lack of evidence, which makes his interpretation of Norman's involvement in the Department of External Affairs less reliable.

This juxtaposition of scholarship persuaded the Canadian government to open an inquiry on the Norman case in 1990. Late in 1989, Peyton V. Lyon was contracted to review all of the Department of External Affairs' files on Norman, and his findings were published in the article "Critique: The Loyalties of E. Herbert Norman," in March of 1990. Lyon concluded that Norman was neither a spy or a Soviet agent, but he did have ties to Communism before joining the Department of External Affairs and this was somewhat covered up because of governmental confidentiality.²⁰ Norman was loyal to Canada, and did not commit suicide to save Soviet secrets. Beyond simply looking at the files on Norman, Lyon also addresses Barros' charge that Norman was a Soviet agent, in an appendix at the end of his article. Lyon calls *No Sense of Evil* an "unrelenting search for evidence to support a preconceived verdict,"²¹ and a "repugnant ... despicable"²² book that only caused bewilderment on his part. Lyon charges Barros with being overly angry and too biased to be writing a book on Norman's life, especially to be writing it without contacting the majority of people who had close relationships with Norman.²³ Lyon essentially closes the case on Norman, stating

¹² Ibid, 370.

¹³ Ibid, 216.

¹⁴ Ibid, 217.

¹⁵ Ibid, 12.

¹⁶ James Barros, *No Sense of Evil: Espionage, The Case of Herbert Norman*. (Toronto: Deneau Publishers and Company Limited, 1986), viii.

¹⁷ Ibid, 158.

¹⁸ Ibid, 182.

¹⁹ Ibid.

²⁰ Peyton V. Lyon, "Critique: The Loyalties of Herbert Norman," *Labour/Le Travail*, 28, Fall 1991, accessed March 8, 2016.

<http://www.jstor.org.libproxy.wlu.ca/stable/25143512>, 220-221.

²¹ Ibid, 251.

²² Ibid, 259.

²³ Ibid, 251.

that Norman was not involved in Soviet espionage, but instead was loyal to the Canadian government during his time in the Department of External Affairs.

In order to understand how Norman became entangled in both American and Canadian anti-Communism, it is important to review the historical landscape of his trials and eventual suicide. The Herbert Norman case goes beyond the battle between Communism and capitalism, and uncovers cracks in the Western Alliance. Despite their long history as close economic partners and allies in the defence of North America, American and Canadian approaches of anti-Communism were incompatible. While both states were committed to defending democracy and capitalism, they differed in their approach to domestic subversion. The Herbert Norman affair showed that the otherwise close relationship between Canada and the United States could not be taken for granted, and that the two states remained very different. In some respects, they were willing to overlook the implications that one man for their relationship, in order to keep a common ground in the context of the Cold War.

Relations between Canada and the United States have had their ups and downs, but ultimately boil down to the image of the “good neighbour.”²⁴ Prior to the twentieth century, Canadian-American relations had a relatively turbulent period of navigating the relationship that was imposed on them because of their geographical proximity to one another. Before Confederation in 1867, many of the issues that arose had to do with the fact that Canada was a British colony, and the interests of the three different nations had to be addressed before Canada’s independence came to fruition. Canada and the U.S. continued down a path of

²⁴ R. D. Cuff and J. L. Granatstein, *Ties That Bind: Canadian-American Relations in Wartime From the Great War to the Cold War*, (Toronto: A. M. Hakkert Limited, 1977), xv.

neutral, but neighbourly, relations until the wars of the twentieth century brought them even closer together.

The First World War propelled the United States to world power status, but also integrated Canadian policies to American wartime goals of security and dominance in the Western hemisphere.²⁵ This included a dominance of industry. In the 1920s and 1930s, the United States was contributing to a large amount of the foreign ownership of Canadian industry and was providing over sixty percent of Canadian imports, including the importing of cultural media and thus American ideals.²⁶ By the time America entered World War II in 1941, it was the global economic hegemon.

The United States also achieved military dominance in WWII. After 1941, Canada and the United States saw the opportunity for a mutually beneficial partnership; Canada would act as a buffer zone for the continental United States and, in return, the U.S. would help defend Canada.²⁷ The Permanent Joint Board on Defence (PJBD) was created to integrate and unify the military command of the two nations.²⁸ The authority of the United States was not lost on Canada, as by 1945 the U.S. had a monopoly on the atomic bomb, an important symbol of American power.²⁹

When the Cold War began in 1947, it is not a surprise that Canada was on the side of the U.S. in the battle against the Soviets and Communism. It is not a coincidence that the North American Airspace Defence (NORAD)

²⁵ Ibid, xvi-xvii.

²⁶ Norman Hillmer, *Partners Nevertheless: Canadian-American Relations in the Twentieth Century*, edited by Norman Hillmer, (Toronto: Copp Clark Pitman Limited, 1989), 3.

²⁷ John R. English, “Canadian-American Relations,” *The Canadian Encyclopedia*, accessed March 9, 2016, <http://www.thecanadianencyclopedia.ca/en/article/canadian-american-relations/>

²⁸ Ibid.

²⁹ Cuff and Granatstein, *Ties That Bind*, xvii.

command was also created in 1958, which built off of the PJBD.³⁰ NORAD further strengthened Canadian-American relations as they depended on each other for survival, but the Canadians always remained second to American command. The U.S. was at the helm in the defence of Western values, and Canada felt it had to stand behind the U.S. in support of the common goals of democracy and security. This partnership benefited Canada, as the 1950s economic prosperity of the United States naturally flowed over the border and into Canada.

Not long after this, in the 1950s, Canada became increasingly critical of the United States and their policies during the Cold War, consistent with a rise in Canadian nationalism.³¹ Also at this time, McCarthyism in the U.S. was rampant and anti-Communism in Canada was becoming more apparent as well. Now dubbed 'McCarthyism,' Republican Senator Joseph McCarthy's anti-Communist movement was a response to Communist infiltration on the domestic front in the 1940s and 1950s. In the name of national security against Communist and Soviet espionage, thousands of Americans lost their jobs, went to prison, or were pressured to remain because of McCarthyism and McCarthy's gratuitous accusations against individuals; many largely had little to do with espionage or Soviet Communism.³² Civil liberties were sacrificed for the idea of national security.

The technique of rounding up vague suspects and pressuring them to name names was not pioneered by McCarthy. In fact, it dates back to Texas Democrat Martin Dies' investigation of "un-American propaganda,"³³ in the late 1930s, with the creation of the Special House Committee on Un-American

Activities (HUAC). HUAC gained traction fast, with staff involving former FBI agents, ex-Communists, and industrial spies all working together to expose alleged Communists and push them out of the country.³⁴ This is where the technique of naming names was conceived, as Communists-in-government became the next big threat to national security under President Roosevelt. Thus, even prior to McCarthy's outright slander of suspected Communists, there were overt movements associated with the American government to weed out Soviet infiltrators.

By the time McCarthy was having a political impact in the early 1950s, there was already a large anti-Communist network in place in America. The outward accusations of anti-Communism in the United States was an act for show, just as much as it was an act against Communists. McCarthy's accusations only increased throughout the decade, with continuous blacklisting, people losing their jobs and being sent to jail without fair trial, and even McCarthy-imposed economic sanctions.³⁵

McCarthy's paranoia and accusations did not stop at the border, and a handful of Canadians in the civil service fell victim to McCarthy-era witch hunts, including Herbert Norman. As mentioned, Norman was a very well educated Japanologist who worked for the Canadian Department of External Affairs and held international job postings in Japan, Ottawa, New Zealand, and Egypt.³⁶ As a scholar and a diplomat in the Canadian civil service, Norman was the embodiment of McCarthy's fear that civil servants were potential Soviet spies. At McCarthyism's height in 1950, Norman was under watch by the FBI and the U.S. Senate for his ties to Communism and was

³⁰ English, "Canadian-American Relations."

³¹ Cuff and Granatstein, *Ties That Bind*, xvi.

³² Ellen Schreker, *Many Are The Crimes: McCarthyism in America*, (Toronto: Little, Brown and Company, 1998), x.

³³ *Ibid*, 91.

³⁴ *Ibid*, 92.

³⁵ *Ibid*, 242.

³⁶ Reg Whitaker and Gary Marcuse, *Cold War Canada: The Making of a National Insecurity State, 1945-1957*, (Toronto: University of Toronto Press, 1994), 404.

questioned as a potential Soviet spy before the Senate Internal Security Subcommittee.³⁷ Suspicion of Norman lasted throughout the 1950s, and when his case was seriously raised again by the same Subcommittee, in 1957 Norman jumped off of a roof in Cairo because he could not take it anymore.³⁸ Norman's suicide created a wave of backlash in Canada, as well as America, for pursuing one man so harshly in the name of American national security.

On a structural level, the actions against Communism came largely from the top, which did not give those who were accused a fair chance to defend themselves against false allegations. This directly affected individuals, especially those in the American civil service, such as scholar of the Far-East, Owen Lattimore. Lattimore's autobiography, *Ordeal by Slander* (1950), is an account of what happened to him as he was accused by the State Department of being the "top Russian espionage agent" in America.³⁹ He writes of his various interrogations by McCarthy and of the State Department's charge that was the number one Soviet spy; he also addresses how he attempted to combat this lie but was caught in a trap of dislocating his own life because of the charges.⁴⁰ Although Lattimore's careers as an academic at John Hopkins University and as an American government liaison were not specifically terminated, they were irreversibly damaged by McCarthy's accusations.⁴¹ Lattimore states that McCarthyism generated so much smoke, that it led the general public to believe that there must have been fire, even when the accusations were mostly false.⁴² Even if one was cleared of Communist charges,

³⁷ Ibid, 404.

³⁸ Ibid, 405.

³⁹ Owen Lattimore, *Ordeal by Slander*, (Boston: Little, Brown and Company, 1950), preface.

⁴⁰ Ibid, 55.

⁴¹ Schreker, *Many Are The Crimes*, 364.

⁴² Lattimore, *Ordeal by Slander*, 223.

as Lattimore was, the air of investigation never truly left as the hunt was so publicised.

On some level, this outburst of accusations was in line with America's place in the world as a leading power, and self-prescribed policeman of the globe. The idea of 'policeman' of the world originated from Theodore Roosevelt's corollary to the Monroe Doctrine of securing the Western hemisphere for American dominance, and was further emphasized after the Second World War when America became the dominant power of the world.⁴³ With this, as American foreign policy rhetoric goes, comes the responsibility to police all other nations, especially under growing globalization. The United States' retaliation and outright witch-hunts against Communism during the 1950s is an extension of their image as the protector of democracy, and the display of anti-Communism was a part of the image of American exceptionalism.

In contrast, Canada was more of a reactionary player during the Cold War that fought battles of anti-Communism and espionage on an ad hoc basis. When the Canadian Soviet defector, Igor Gouzenko, story broke with his slew of documents that named Canadian civil servants and people in the military as working for the Soviets, it came as a surprise to Canadian security officials.⁴⁴ This led to the Kellock-Taschereau Commission being implemented by the Canadian government in 1946 to investigate those who were named on Gouzenko's list.⁴⁵ This directly contradicts the anti-Communist movement in

⁴³ Richard Serge, "The Roosevelt Corollary," *Presidential Studies Quarterly*, Volume 36, March 2006, DOI: 10.1111/j.1741-5705.2006.00283.x.

⁴⁴ J. L. Granatstein and David Stafford, *Spy Wars: Espionage and Canada, from Gouzenko to Glasnost*, (Toronto: Key Porter Books Limited, 1990), 88.

⁴⁵ Robert Bothwell and J.L. Granatstein, *The Gouzenko Transcripts: The Evidence Presented to the Kellock-Taschereau Royal Commission of 1946*, edited by Robert Bothwell and J.L. Granatstein, (Ottawa: Deneau Publishers and Company, Limited, 1982), 11.

the United States, as the State Department often worked to find lists of alleged Communists and took pre-emptive measures, instead of the RCMP using a list that was found and making inquiries as a reactive measure. The idea that Communists were able to infiltrate the government without recognition was not an idea that Canadian security had prepared for or was working against as a precaution, as they were in the United States.

With the names provided on Igor Gouzenko's list, the RCMP and the Canadian Department of Justice worked to detain Communist suspects within the civil service. However, instead of publicly defaming those who were under questioning as per McCarthyism, the RCMP used the War Measures Act, the Inquiries Act, and the Official Secrets Act to create an "impenetrable wall of secrecy" surrounding the investigation.⁴⁶ Canada, as a self-prescribed middle power, pursued much of their anti-Communist battles behind closed doors and behind the guise of the Royal Canadian Mounted Police. Where American foreign policy following the Second World War involved expansion to maintain their power in a globalized world, Canadian foreign policy was about the prevalence of moralism; Canada wanted to work as the "moral superpower" to the American's overall power.⁴⁷ Canadian anti-Communism was an extension of this, like America's was of their power.

The RCMP officers in Canada were looking for the same things that McCarthyists were looking for in America, and that was confessions, information, and the names of other suspects. The difference was in the methodology. In Canada, civil servant suspects were quietly taken from their positions, tied to lie detectors, and told they had to answer any

⁴⁶ Whitaker and Marcuse, *Cold War Canada*, 64.

⁴⁷ Robert Bothwell, *Alliance and Illusion: Canada and the World: 1945-1984*, (Vancouver: UBC Press, 2007), 7-8.

of the questions that the RCMP had.⁴⁸ Again, Canada was doing its work in the background so as not to appear as a dominant power. They were still attempting to root out domestic Communism by victimizing individuals, just in a much quieter way to maintain their 'impenetrable wall of secrecy' surrounding the investigations. This also goes back to Canada wanting to stay on the moral high plane of politics, as they viewed McCarthyism as irresponsible, surprising, and "disturbing."⁴⁹ To remain the moral superpower, Canada kept its witch-hunting in the background, in the name of protecting Canadian citizens. Andrew Arthur attributes this to Canada attempting to hold on to much of its "idealistic innocence," and much of it resided in Canada's middle power status.⁵⁰ As controversial and as tragic as Norman's suicide was, it revealed the stark differences between Canadian and American approaches to domestic anti-Communism in the name of national security.

These different approaches to domestic anti-Communism caused tension during the economically prosperous 1950s, and Norman's suicide near the end of the decade highlighted these tensions. The Canadian economy was second to only the American economy during the 1950s, with high and stable employment.⁵¹ With such a successful beginning to the decade after the Second World War, there was not much sense in going against the Americans when they wanted to make direct investments in Canada. Over the decade, foreign direct investment (FDI) from the United States made

⁴⁸ Ibid, 65.

⁴⁹ Canadian Weekly Bulletin, "Exchange of Security Information with the United States," *Information Division of Department of External Affairs*, Vol 12, No 6, (April 17, 1957), http://dfait-aei.canadiana.ca/view/oe.b3463333_146, 3.

⁵⁰ Andrew Arthur, *The Rise and Fall of a Middle Power: From King to Mulroney*, (Toronto: James Lorimer and Company, 1993), <http://books.scholarsportal.info/viewdoc.html?id=37912>, 42.

⁵¹ Bothwell, *Alliance and Illusion*, 107.

up 76 percent of the total FDI in Canada.⁵² This raised minor concern among Canadians, as the general public had grown used to relying on Britain for the majority of its trade and was fearful of decisions being made in the United States affecting Canadian industry.⁵³ This was viewed by some as a hindrance of Canada's sovereignty, something that the nation had been fighting for since its break with Britain. These views were often disquieted by cautiously managing Canadian-American relations to foster trade, and by Canadians realizing that the benefits of being friends with America often outweighed the costs.⁵⁴ Even before Norman's suicide, Canadians in government and in the general population tended to gloss over and remedy issues with their American neighbours to keep long-term relations on an even landscape. This is especially true during the Cold War, as security from the Soviets trumped souring relations with America.

To look specifically at the Canadian government this time, attention needs to be shifted to the Department of External Affairs (DEA) as a government entity during 1950s. In charge of the DEA at the time was former diplomat Lester B. Pearson. Canadian foreign policy was becoming solidified to coordinate Canadian participation in a global setting and with the United States, and under Pearson, the department was reorganized. By 1952, representation abroad accelerated to establish more positions in Europe, Latin America, the Middle East, and Asia.⁵⁵ Of these positions abroad, E. Herbert Norman was head of the Canadian liaison mission in Tokyo with the DEA in the early 1950s.⁵⁶

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid, 108.

⁵⁵ John Hilliker and Donald Barry, *Canada's Department of External Affairs Volume 2: Coming of Age, 1946-1968*, (Montreal: McGill-Queen's University Press, 1995), 95.

⁵⁶ Hilliker and Barry, *Canada's Department of External Affairs*, 65.

As mentioned, Norman was suspected of being a Soviet spy by the Federal Bureau of Investigation and the State Department more than once during the 1950s. Norman's name first appeared suspicious when he was listed in investigations surrounding the Gouzenko case and was found to be involved with a Soviet defector, Israel Halpernin.⁵⁷ The interrogation was in 1950, which meant that Pearson had to call Norman back from his Tokyo post to undergo his first investigation by the Department of External Affairs as a result of State Department pressure. Pearson claimed that this was the most exhaustive investigation of any civil servant in Canada he had ever conducted.⁵⁸ At the end of this, Norman was cleared of any suspicion in early 1951, but the State Department was not convinced.

The American anti-Communist movement was not holding back, and continued to lengthen its reach into the Canadian Department of External Affairs. Norman's name came up again in the summer of 1951, with the Senate Internal Security Subcommittee hearings and a testimonial that tied Norman to the Communist Party.⁵⁹ This only worked to strengthen Pearson's anger against McCarthyism, which pushed him to protect Norman by keeping him in the DEA and barring Canadians from testifying against Norman in Washington.⁶⁰

January of 1952 brought another investigation of Norman and by March, Pearson was convinced that although Norman did have Communist ties during his school days, Norman was now loyal to Canada and was therefore not a security threat.⁶¹ The United States was not satisfied with this, so in response Pearson sent Norman to a DEA post

⁵⁷ Granatstein and Stafford, *Spy Wars*, 94.

⁵⁸ Taylor, *Six Journeys*, 138.

⁵⁹ Granatstein and Stafford, *Spy Wars*, 97.

⁶⁰ English, *The Worldly Years*, 176-177.

⁶¹ Granatstein and Stafford, *Spy Wars*, 100.

in New Zealand to remain in the background with a job still in tact.⁶² In 1956, Pearson thought it was time to bring Norman back to the forefront of foreign relations so he did not feel he had to resign to the less “responsible” job of an academic post, and named him the Canadian ambassador to Egypt in 1956 during the Suez Crisis.⁶³

Norman proved to be an essential player in mediating between Nasser, Canada, and the United Nations. During the Crisis, Norman had relatively close relations with Nasser as a liaison for Canadian efforts and the involvement of Canada in the United Nations Emergency Force.⁶⁴ He demonstrated that he was vital in his conversations with Nasser by convincing Nasser that friendly relations between the two countries were still present; Nasser is even noted as requesting to see Norman more often because Norman was very effective in clearing up misunderstandings.⁶⁵ Pearson’s decision to send Norman to Egypt was very fruitful, as Norman was able to build good relations with Nasser.

Just as his career was taking off after his previous investigations, Norman was under fire again by the State Department. The same Subcommittee that had tried to purge Norman by accusing him of Communist sympathies years earlier, was working to now charge Norman with further disloyalty in March of 1957.⁶⁶ With the renewed accusations, and stress from his new position, Norman took his own life on April 4th in Cairo.⁶⁷ In America, the McCarthy-era witch hunts were nearing their end in 1956, and Norman’s suicide symbolized

⁶² Ibid.

⁶³ English, *The Worldly Years*, 178.

⁶⁴ E. Herbert Norman in *Documents on Canadian External Relations*, Volume 22: 1956-1957, Part 1, edited by Greg Donaghy, (Ottawa: Department of Foreign Affairs and International Trade, 2002), 478.

⁶⁵ Norman, *Documents on Canadian External Relations*, Vol 22, Part 1, 477.

⁶⁶ Eayrs, *Canada in World Affairs*, 154.

⁶⁷ Ibid.

the Cold War paranoia as its last major public victim. This spurred strong public backlash in Canada, and became the topic of a number of Parliamentary Debates. The question within the government was of how much security information Canada should have offered to the United States, and if perhaps they need to rethink the overlap of American and Canadian domestic anti-Communism.

Dated April 12, 1957, the Department of External Affairs Parliamentary Debates addressed the Norman case, and Pearson’s involvement in it. Pearson claimed that he stands by Norman’s accusations remaining out of the public eye⁶⁸ and stated that his defense of Norman was whenever he deemed necessary to protect Norman from American witch hunts.⁶⁹ Here, Pearson appears to take on the role of the Canadian ‘middle power,’ by offering his protection of Norman from the superpower of the Americans, to keep the Americans in check and to balance their dominance of power. Pearson then went on to bring moralism back into the rhetoric, stating that he always had “faith” in Norman’s loyalty and wanted to keep him out of the public’s eye because of it.⁷⁰ Pearson called for the assurance that information from Canada be handled delicately by the Americans.⁷¹ By introducing moralism, Pearson again represents the Canadian nationalist ideas of being the middle power and remaining ‘good’ in reaction to American anti-Communist aggression.

Following a similar rhetoric, Canadians in general hardened in their anti-Americanism because of the American hounding of Norman;

⁶⁸ Lester B. Pearson in *House of Commons Debates, 22nd Parliament, 5th Session, Volume 3*, Library of Parliament, accessed February 20, 2016, http://parl.canadiana.ca/view/oop.debates_HOC2205_03, 3493.

⁶⁹ Lester B. Pearson in *House of Commons Debates, 22nd Parliament, 5th Session, Vol 3*, 3501.

⁷⁰ Ibid.

⁷¹ Ibid.

they worried that this hostile McCarthyism would branch out to American foreign policy and would continue to affect Canada negatively.⁷² Immediately after Norman's suicide, Canadians generally believed that he was pushed to his death by American witch-hunters.⁷³ Anti-Americanism was growing from the newly-born Canadian nationalism, and the suicide of Norman only added ammunition to the anti-American movement.

On July 24, 1957, a Congressional Security Investigation was held between the Under Secretary of State and the Secretary of State for External Affairs. This memorandum addressed the exchange of security information with the United States, which called for the right of the RCMP to not give security information regarding Canadian citizens to any U.S. government agency.⁷⁴ However, the same July 24th memorandum changed its language near its conclusion, stating that it would be "unwise" for the Canadian government to take any immediate action if the U.S. did not respond encouragingly to their request, in order to keep their relations positive.⁷⁵ This shows a clear reluctance on the part of the Canadian government to take any brash action against the United States, even if they wanted to. The Canadian government opted to make a small statement and push back American security intervention, but not to push so hard that it would harm their relations.

Later, in May of 1958, an extract from cabinet conclusions reveals that the Canadian government thought there was "no point ... [of] getting into a controversy with the U.S.

Congress,"⁷⁶ because the executive American government did not have control over the U.S. Senate Committee, and therefore had removed themselves of the responsibility of Norman's suicide. Pearson charges this as intolerable, as he stated that it is the Canadian government's responsibility to deal with accusations against its own citizens, and that the complaints coming from the Canadian government regarding the Sub-Committee's methods should be taken seriously.⁷⁷ Pearson again maintains his moral superiority, which is something that directly contradicts Prime Minister Diefenbaker's reaction to the Norman case.

In the Parliamentary Debates, Diefenbaker is noted as believing there was no need to "blow up" the Norman case in the name of Canadian-American security information exchanges.⁷⁸ Here, we see Diefenbaker and Pearson pit themselves against one another in the name of Canadian nationalism. Pearson is much more of a Canadian nationalist and his claim that America cannot override Canadian security dealings supports this. He saw American interference in Canadian security measures as detrimental to Canada's sovereignty, and wanted Canada to deal with their own issues internally, instead of outsourcing them to the United States. Diefenbaker perceived this as a threat to good relations with the Americans, and held to Canada's middle power status of not taking the spotlight when issues, like the Norman case, arose in order to not upset the Americans.

From the top down, the Canadian government was willing to overlook the suicide of Norman and the U.S. interference in Canadian national security in the name of preserving good relations with them, even

⁷² Granatstein, *Yankee Go Home*, 127.

⁷³ *Ibid*, 120.

⁷⁴ J. W. Holmes in *Documents on Canadian External Relations*, Volume 25: 1957-1958, edited by Greg Donaghy, (Ottawa: Department of Foreign Affairs and International Trade, 2002), 259.

⁷⁵ Holmes, *Documents on Canadian External Relations*, Volume 25, 261.

⁷⁶ "Extract from Cabinet Conclusions," in *Documents on Canadian External Relations*, Volume 25, 269.

⁷⁷ Lester B. Pearson in *House of Commons Debates, 22nd Parliament, 5th Session, Vol 3*, 3359.

⁷⁸ "Extract from Cabinet Conclusions," in *Documents on Canadian External Relations*, Volume 25, 269.

though there was some protest. Canadian confidence in the U.S. government to hold their position as world policemen was softened, but it did not go away. The Canadian government felt that in order to survive the Cold War, they had to remain on relatively good terms with their “generous, charming, and often frightening” neighbours to the south.⁷⁹ To quote Diefenbaker in April of 1957, the relationship between Canada and the United States was of “paramount importance to the preservation of freedom, and that the common dedication to freedom on the part of our two countries shall not be diminished as a result of this unfortunate occurrence [Norman’s suicide].”⁸⁰

It was also in the late 1950s that Diefenbaker wanted to go ahead with the Eisenhower’s Distant Early Warning (DEW) Line, funded by the United States.⁸¹ Construction of this began in 1957, and it is likely that Diefenbaker had this in mind when he was pushing to keep relations with the U.S. on good terms, as the DEW Line offered a security measure that Canada could not afford on its own. The DEW radar line was so far up north that it could detect if there was incoming fire sooner than the Mid-Canada Line at the fifty-fifth parallel.⁸² When looking back on Diefenbaker’s time in office, he is more well-known for his animosity towards the United States because of his dealings with the young President John F. Kennedy. However, in his earlier days as Prime Minister, Diefenbaker was relatively pro-American, as outlined through his willingness to overlook the Norman Affair and his approval of the DEW Line.

Prime Minister Diefenbaker was very willing to look the other way when it came to

⁷⁹ Granatstein, *Yankee Go Home*, 127.

⁸⁰ J. G. Diefenbaker in *House of Commons Debates*, 22nd Parliament, 5th Session, Vol 3, 3359.

⁸¹ *Ibid*, 117.

⁸² *Ibid*.

the protection that the U.S. offered Canada, and Norman’s suicide only acted as a minor hiccup in the relations between the two countries; the Norman case worked to complicate Canadian-American relations, but it did not end them. In regards to Pearson’s defense of Norman and outright regret for American involvement, Pearson found this a necessary position to take not only for himself, but to appease the public, as the public were the ones who were most upset about the whole debacle.⁸³ Rising nationalism in Canada made Canada less predictable to the United States, but the Canadian government still tried to deal with the case without damaging Canadian-American relations.

In conclusion, the suicide of Canadian Diplomat E. Herbert Norman as a result of McCarthyism witch-hunts did very little to harm Canadian-American relations. Canada and the United States have a long history of cordial relations, where the U.S. acts as the world superpower that protects the middle power status of Canada when necessary. However, this got out of hand when the superpower-mentality reached above the border and made its way into the Canadian government, and those who worked within it. Try as they might, the RCMP and Lester B. Pearson were not able to disquiet the suspicion surrounding Herbert Norman and his Communist ties, and as his charges by the Senate Sub-Committee increased, he took his own life.

Norman’s suicide caused rifts within the Canadian government as to how they should deal with Canadian-American security information exchanges, but the consensus was that nothing should be done that would upset the American government. In the end, the American government apologized through the Canadian ambassador in Washington, A.D.P. Heeney, for Norman’s suicide and shifted blame by stating that they are not responsible

⁸³ Bothwell, *Alliance and Illusion*, 131.



for the actions that the Subcommittee takes.⁸⁴ Prime Minister Diefenbaker accepted this apology, looked the other way, and continued on the path of friendly relations between the United States and Canada. The Cold War caused many tensions to boil over and end in destruction, but in Canada, it merely boiled over to the death of a diploma.

⁸⁴ A. D. P. Heeney in *House of Commons Debates, 22nd Parliament, 5th Session, Vol 3, 3357.*

“Behind the Book Burnings: A Critical Look at Literature in Nazi Germany,”
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On May 10, 1933, more than 25,000 “un-German” books were burned across Germany. These conflagrations took place in Berlin, Munich, Breslau, Kiel, Heidelberg, and Frankfurt-am-Main.¹ Works by hundreds of authors, such as Heinrich Mann, Erich Maria Remarque, Walter Benjamin, Magnus Hirschfeld, Albert Einstein, Helen Keller, Karl Marx, and Sigmund Freud were reduced to ashes. Books and essays were thrown onto pyres because they attacked the purity of Germany. The official name given to the event by Nazis was the “Action Against the Un-German Spirit.”² Heinrich Mann’s *The Patrioteer*, Erich Maria Remarque’s *All Quiet on the Western Front*, Walter Benjamin’s essays, like “Theories of German Fascism” and Magnus Hirschfeld’s *A Sexual History of the World War* were banned and burned because they promoted anti-Nationalism, dealt with vulgar subject matter, such as sex and sexuality, and, for Benjamin and Hirschfeld, were written by Jews. It is important to not only know the literature that was attacked by Nazis but to also take a closer look at their content and to understand why these works were such a threat to this new regime. Many English language scholars have also explored the role of the 1933 book burnings, which is why I will be looking at their studies to have a firmer grasp on the history and impact of the burnings; only thereafter will I delve into the novels and essays.

However, it is important to note that these scholars deal with the book burning in relation to the whole of Hitler’s regime, instead of

looking at it as its own event, which is why I will examine how the book burnings are treated within this larger context. The first scholar that will be looked at is H.G. Atkins, and his novel *German Literature Through Nazi Eyes*. This book was written in 1941, and Atkins seeks to look at German literature that has been “subordinated to the interests of the Nazi community.”³ Leonidas E. Hill’s essay “The Attack on ‘Un-German’ Literature, 1933-1945,” explores the symbolic meaning of the book burnings, and Leonidas argues that the “book burnings of 1933 are an appropriate symbol for and anticipation of the wartime extermination of Jews and Slavs.”⁴ In *Burning Books*, Matthew Fishburn’s study spans hundreds of years, and explores the connection between cultural and physical destruction, and more specifically the desire to destroy printed literature.⁵ Finally, Jan-Pieter Barbian’s *The Politics of Literature in Nazi Germany* will be considered. Barbian focuses on the political structures and policies that restricted and banned many authors and how these allowances promoted Nazi ideologies among the public.⁶ By exploring literature by Mann, Remarque, Benjamin, and Hirschfeld, it becomes clear that the book burnings were used to silence and censor novels and other

¹ Haig Bosmajian, *Burning Books* (Jefferson: McFarland & Company, 2006), 13.

² Bosmajian, *Burning Books*, 165.

³ H.G. Atkins, *German Literature Through Nazi Eyes*, 1941 (New York: Routledge, 2010), 1.

⁴ Leonidas E. Hill, “The Nazi Attack on ‘Un-German’ Literature, 1933-1945,” in *The Holocaust and the Book*, ed. Jonathan Rose (Amherst: University of Massachusetts Press, 2001), 9.

⁵ Matthew Fishburn, *Burning Books* (Basingstoke: Palgrave Macmillan, 2008), 8.

⁶ Jan-Pieter Barbian, *The Politics of Literature in Nazi Germany: Books in the Media Dictatorship* (New York: Bloomsbury, 2010), 10.

works that promoted what the Nazis deemed to be anti-Nationalist ideals, and vulgar ideologies around sex. Stated positively, the fledgling Nazi government used the removal of a wide swath of books to promote anti-Semitism through Germany.

H.G. Atkins' *German Literature Through Nazi Eyes* was written less than a decade after the 1933 book burnings. He was also writing while the Nazis were still in power in 1941. He begins his book by discussing Hitler's seizure of power and what that meant for German literature. Atkins states "Hiterlism is renowned for its myth-creating fertility, and here too a myth was sedulously cultivated."⁷ The myth that Atkins refers to is the idea that literature written by Jews is worthless and should not be foisted upon the German population, while on the other hand those who promote Jewish novels are repressing the rich and "truly German" literature.⁸ This sets the background for the book burnings that took place on May 10, 1933. However, he only dedicates one page to this event.⁹ This text shows how early scholars viewed the burnings as an important event, but did not see it as something that should be looked at critically on its own. Instead Atkins uses the book burnings as a transitional point on the importance of Nazi influence in German literature. Atkins states that Nazi literature provided the party and the public with a wide variety of new war-cries and party-yells, thereby promoting anti-Semitic ideals throughout the German population.¹⁰ Atkins promotes the idea that Nazis used myth and language to silence Jewish authors, and those who supported Jewish authors, while also using these tactics to spread their own ideologies. He discusses how Nazis revaluated German literature from the thirteenth,

fourteenth, and fifteenth centuries to enforce their modern ideologies.¹¹ This revaluation of literature comprises most of the rest of Atkins' book.

Atkins concludes his work by stating "Nazidom is a real revolution; if anything more complete in the cultural than in the political sphere."¹² This was Atkins big concern, not with the political power that the Nazis had, but instead with the cultural influence they wielded. By taking out all the promising literature written between 1920 and 1930, Atkins believes that Nazi secured their place in achieving a revolution.¹³ This first exploration of Nazi literature starts to piece together the impact that the book burnings held on German culture.

Leonidas E. Hill also focuses on the importance of the book burnings in his essay "The Nazi Attack on 'Un-German' Literature, 1933-1945," written in 2001. Hill, similarly to Atkins, argues that the book burnings in 1933 set the stage for the future barbarism towards Jews and Slavs.¹⁴ Hill briefly lays out the events prior to 1933, where newspapers, such as *Völkischer Beobachter* candidly announced future cultural policies that would purify German culture, while denouncing "un-German" authors and ideas.¹⁵ It is important that Hill focused on the preparation for the burnings, as it helps to fill in the picture surrounding the event. Hill states that by 1933 twenty-one offices had banned more than one thousand books.¹⁶ He also emphasizes the fact that the burnings were committed by a Nazi student organization, Deutsche Studentenschaft, as a publicity stunt. It was not the government that issued the books to be burned, but Goebbels welcomed the student's

⁷ Atkins, *German Literature Through Nazi Eyes*, 2.

⁸ Ibid.

⁹ Ibid. 4.

¹⁰ Ibid. 20.

¹¹ Ibid. 25.

¹² Ibid. 91.

¹³ Ibid. 94.

¹⁴ Hill, "The Nazi Attack on 'Un-German' Literature, 1933-1945," 9.

¹⁵ Ibid. 11.

¹⁶ Ibid. 12.

initiative.¹⁷ The burnings continued through until June 21, 1933. In each event the burning of books became symbolic, from the building of the pyre, to dances, and songs, and even clothing.¹⁸ Hill's analysis of the showmanship surrounding the "Action Against the Un-German Spirit" pieces together the fervor and excitement that Germans felt towards the burnings.

Similarly to Atkins, Hill uses the book burnings as a turning point in the policies that Nazis used to restrict literature in Germany. By 1938, Nazis had confiscated and Aryanized Jewish-owned, or "politically suspect" publishing houses.¹⁹ For Hill, "Through book burnings and the Holocaust the Nazis pursued the same objective, the destruction of the 'un-German spirit,' which they believed to be fundamentally Jewish."²⁰ The book burnings were merely a stepping-stone towards a much more violent cleansing. Hill's essay focuses on the policies surrounding literature, but also reflects on how the book burnings turned into a sign of Nazi cruelty and vehement anti-Semitism. The book burnings also took place because of Nazi students, which then later informed official Nazi policies regarding German literature and publishing.

Matthew Fishburn's *Burning Books* also looks at the 1933 book burning in regards to its place in history. Unlike Atkins and Hill, however, Fishburn begins his work in the 1600s. He states, "Without the background the tenor and the effect of the student fires of Germany in 1933 cannot be clearly understood."²¹ The first section of his book argues that the burnings in Germany were not an isolated event. People have feared books and their power for generations. Fishburn follows the trend of book burning up until the

twentieth century, when they fell out of fashion.²² It is interesting to note that Fishburn heavily emphasizes the symbolic power that fire and burning had. As a symbol, fire represents a cleansing and a purging of impurity, which is what Nazis were seeking to do by burning unsavory and "disgusting" literature.²³ Fishburn draws on the reaction of the international stage towards the book burning. A large portion of the international media treated the "Action Against the Un-German Spirit" with "mocking derision or amused condensation."²⁴ International populations failed to see the book burnings as anything more than witless students protesting and saw no real threat in their actions.²⁵ After discussing the event of the fire itself, Fishburn takes a different approach to the aftermath than Atkins or Hill.

Fishburn instead looks at how the fire impacted those authors who were exiled and forced to flee Germany. He draws on the *Brown Book of the Hitler Terror and the Burning of the Reichstag*. This book was published in 1933, by several authors who were exiled, including Heinrich Mann. The *Brown Book* drew attention to a wide variety of issues within Nazi Germany, and articulated how "bookfires were the most important evidence of a fundamental attack on dissent."²⁶ These authors tried to bring attention to the horrible atrocities that were being committed in Germany, with the book burnings being the first of many. Fishburn concludes his work, as Hill does, with the end of the Nazi regime, and the Day of Free Books on May 10, 1947, when four exiled writers returned to the site of the 1933 book burning to give a speech about the event, and how intellectual unity cannot be destroyed by fire.²⁷ In the end, Fishburn

¹⁷ Ibid. 13.

¹⁸ Ibid. 16.

¹⁹ Ibid. 26.

²⁰ Ibid. 34.

²¹ Fishburn, *Burning Books*, 10.

²² Ibid. 20.

²³ Ibid. 32.

²⁴ Ibid. 37.

²⁵ Ibid.

²⁶ Ibid. 53.

²⁷ Ibid. 155.

approached the subject of the 1933 book burnings very similarly to Atkins and Hill, in that it was a significant event, which set the stage for the future eradication of all things deemed “impure” in German society. Fishburn, however, was able to expand the picture to include, not only how the fires affected Nazi literature, but also how it affected the authors whose works were burned.

Finally, Jan-Pieter Barbian’s book, *The Politics of Literature in Nazi Germany*, explores the bureaucratic bodies that were forcibly aligned with the regime, and how that impacted the writing and publication of literature.²⁸ Barbian begins in February of 1933, when President von Hindenburg issued a “Decree for the Protection of the German People,” which included a section on printed publications. This was the first step in the tightening of regulations surrounding literature.²⁹ Barbian follows the political changes that led up to the May 10 book burnings. Barbian explains how the “book burning was a symbol of the revolution, the symbol that intellectual decay had been overcome once and for all.”³⁰ The burning was to symbolize the destruction of the corrosive Jewish influence in universities and to fight against their smear campaign of Germany.³¹ Similarly to Atkins, Barbian only mentions the 1933 burnings in relation to the whole picture. The book burning only comprises two pages. However, Barbian’s focus on the changing institutional structures throughout 1933 and through the rise of Nazism, allows for a better grasp of the policies that led to, and were influenced by, the book burnings.

By July of 1933, the Propaganda Ministry and the Reich Chamber of Culture had been established to maintain and promote Nazi ideologies throughout German society,

including through literature.³² The Chamber of Literature was also a tool used by the Nazi regime to squeeze out Jewish publishers, and by 1938, the few remaining “non-Aryan” publishers were finally excluded from the Chamber. The only option left was to work in the “ghetto book trade” or be absorbed.³³ However, because there was such a demand for literature at the rise of Hitler’s power, that by 1941 there were book shortages across Germany. Book manufacturing and production had become such a staple of German culture that the supply situation began to deteriorate, and the Chamber of Literature had to freeze establishing new publishers.³⁴ In the end, Barbian states that literature directed Nazi propaganda at the population and created false realities to incite loyalty in the public.³⁵ As with the other authors I have looked at, Barbian explains the 1933 book burning as an important event by which Nazi fanaticism took off, but focuses on the behind the scenes policies that changed literature in Germany.

Although the work done by these scholars is impressive, and comprehensive of Nazi literature as a whole, they do not go into a critical analysis of the authors and works that were burned. There is much more work that can be done in understanding the 1933 book burnings as an event in and of itself, and not just as a moment to be passed over. By engaging with the texts that were burned, it will bring us one step closer to understanding Nazi fears and concerns surrounding literature by “degenerate” authors, during their rise to power in 1933.

Heinrich Mann (1871-1950) was one of the many German authors whose work was burned in the “Action Against the Un-German Spirit.” His most well known work was *The Patrioteer*, which has also been referred to as

²⁸ Barbian, *The Politics of Literature in Nazi Germany*, 8.

²⁹ *Ibid.* 13.

³⁰ *Ibid.* 23.

³¹ *Ibid.*

³² *Ibid.* 95.

³³ *Ibid.* 178.

³⁴ *Ibid.* 288.

³⁵ *Ibid.* 370.

Man of Straw and *The Loyal Subject*. *The Patrioteer* was written in 1914, but was not published until 1918, and became an instant success due to its intense anti-nationalism.³⁶ After the events on May 10, 1933, Mann fled Germany, along with hundreds of other authors.³⁷ The novel came under heavy criticism by Nazis because it “was nothing but an insolent caricature of German life.”³⁸ *The Patrioteer* follows Diederich Hessling through his lifetime. From the first line, Mann portrays exactly the type of man that Diederich is. Mann writes, “Diederich Hessling was a dreamy, delicate child, frightened of everything, and troubled with constant earaches.”³⁹ Diederich is a satirical image of the typical German citizen. For Mann, Germans are delicate and terrified, and will constantly suffer from one malady or another. However, Mann presents Diederich as a boy, and later man, who is capable of manipulating power to his benefit. In school, Diederich manages to gain the protection of the headmaster, and “the class could not refuse to honour one who enjoyed the favour of the headmaster. Under him Diederich rose to the head of the class and secretly acted as monitor.”⁴⁰ Here, it appears that Mann is criticizing German citizens who rise to positions of power because of favour, and not on any merit of their own. Even though he is a young boy, Diederich has already learned to utilize the system that only benefits the few.

As he grows up, Diederich joins a student fraternity, Neo-Teuton, where he learns “self-control, a sense of good form, *esprit de corps*,

and zeal for his superiors.”⁴¹ This enthusiasm towards his superiors is referred to constantly throughout the novel, but Mann uses it to show Diederich’s shallowness and weakness. There is no substance in Diederich, as he simply follows the allure of powerful men, and uses it to his advantage. This becomes clearer when Diederich has to complete his year of service in the military. It is at this point that Mann’s sense of anti-Nationalism becomes apparent. Mann not only uses Diederich to criticize the war, but also the falseness of the soldiers and officials. Diederich constantly praises the might and valor of the military, and commending soldiers for their bravery.⁴² Yet, Diederich manages to find ways in which to shirk his responsibilities, “When they were running Diederich fell and hurt his foot. It was not quite bad enough to make him limp, but he did limp, and when the company went out marching, he was allowed to remain behind.”⁴³ Diederich remains full of contradictions, which Mann uses to illustrate the typical German citizen. For Mann it appears that Germans merely speak words of bravery, but turn to cowards when the time comes to act or take responsibility.

Diederich’s experience in the military is but one moment where Mann shows what a horrible, petty, and weak man Diederich truly is. He says and does anything to get out of his responsibilities, but his time with Neo-Teuton taught him how to play the system, and to make powerful connections. The most apt description of Diederich comes from another character in the novel, Buck. He says, “I will not speak of the prince, but of the loyal subject, whom he has molded; not of Wilhelm II but of Diederich Hessling. You have seen what he is like! An average man, with a common place mind, the creature of circumstance and opportunity, without courage so long as things

³⁶ David B. Dennis, *Inhumanities: Nazi Interpretations of Western Culture* (Cambridge: Cambridge University Press, 2012), 226.

³⁷ Dennis, *Inhumanities*, 225.

³⁸ *Ibid.* 226.

³⁹ Heinrich Mann, *The Patrioteer*, 1918, trans. Ernest Boyd (New York: Harcourt, Brace and Company, 1921), 3.

⁴⁰ Mann, *The Patrioteer*, 9.

⁴¹ *Ibid.* 29.

⁴² *Ibid.* 42.

⁴³ *Ibid.* 41.

are going badly for him here, and tremendously self-important as soon as they turn had turned in his favour.”⁴⁴ Diederich is but a hollow man, who fills himself with words that please his superiors, but when it comes to action, his true nature is revealed. *The Patrioteer* seems to reflect Mann’s deep-seated anti-Nationalism with Germany and its citizens. He exploits the nations vanity and shallowness through Diederich, who believes he is more superior than in reality. For these reasons, it becomes clearer as to why Nazis felt threatened by Mann and his novel. Not only does the book point to Germany’s flaws, but it also addresses the falseness of those in power. Mann’s work of fiction criticizes the cowardice and weakness of the German nation and people.

Erich Maria Remarque’s famous novel, *All Quiet on the Western Front*, was another piece of German fictional literature that was burned by Nazis on May 10, 1933. *All Quiet on the Western Front* was published in 1929, and since its publication came under heavy attack and criticism by the Nazis.⁴⁵ Remarque saw in the World War “nothing but a great, monstrous absurdity, and worse: a constant flow of beastliness.”⁴⁶ This was reflected in his writing. The main character of the novel, Paul Bäumer, reveals that he and his friends joined the military due to an intense sense of nationalism, but it was quickly stripped away in the face of war.⁴⁷ “With our young awakened eyes we saw the classical conception of the Fatherland held by our teachers resolved itself here to a renunciation of personality such as one would not ask of the meanest servant.”⁴⁸ Paul and his comrades may have joined the army for some sense of

loyalty to their nation, but in return they lost not only themselves, but also their lives. Remarque is expressing the horror that these young men faced in the name of their country. Paul remarks, “We are forlorn like children, and experienced like old men, we are crude and sorrowful and superficial—I believe we are lost.”⁴⁹ For Paul, and Remarque, the war has destroyed their youth and innocence. Nationalism no longer means anything to them, and it is worthless on the battlefield, where everyone is lost.

Remarque’s critique of nationalism points directly to those in power, and who sent these young men to face such horrors. Paul relates to the reader, “While they continued to write and talk, we saw the wounded dying. While they taught that duty to one’s country is the greatest thing we already knew that death-throes are stronger. [...] We were all at once terribly alone; and alone we must see it through.”⁵⁰ Paul is expressing that while those who held power sat around and talked of war, he and his friends were putting their lives on the line for men who did not care about them. The realization of being utterly alone is what splinters the soldiers from their superiors. This sentiment is continuously expressed throughout the remainder of the novel. Paul says, “I am young, I am twenty years old; yet I know nothing of life but despair, death, fear, and fatuous superficiality cast over an abyss of sorrow. I see how peoples are set against one another, and in silence, unknowingly, foolishly, obediently, innocently slay one another.”⁵¹ Even here, there is a sentiment that it is not just the German government that is sending young men to die, but that all governments are sacrificing their citizens for the good of the nation. Paul struggles with notion that Germany and other nations have thrown soldiers at one another to no end. In many

⁴⁴ Ibid. 215.

⁴⁵ Dennis, *Inhumanities*, 296.

⁴⁶ Ibid. 297.

⁴⁷ Erich Maria Remarque, *All Quiet on the Western Front*, 1929, trans. A.W. Wheen (London: Unwin Brothers Limited Inc., 1930), 29.

⁴⁸ Remarque, *All Quiet on the Western Front*, 30.

⁴⁹ Ibid. 137.

⁵⁰ Ibid. 20.

⁵¹ Ibid. 287.

ways, the enemy is not the soldiers Paul and his comrades are fighting, but the enemy is in fact their own nation. This blatant criticism and damaging view of Germany would not have been acceptable to the Nazis coming into power. They were seeking to unite the nation, and promote the heroism of war, which is what makes *All Quiet on the Western Front* so harmful to the Nazi agenda.

It appears that the Nazis also despised Remarque's novel because it portrayed German soldiers as weak and terrified of war, instead of brave and heroic. It did not glorify these men or their actions. One instance of this is when Paul and his division are under attack. "Beside us lies a fair-headed recruit in utter terror. He has buried his face in his hands, his helmet has fallen off. [...] Cautiously he reaches his hand to his behind and looks at me dismally. I understand at once; Gun-shy. [...] 'That's no disgrace,' I reassure him; 'Many's the man before you has had his pants full after the first bombardment.'" ⁵² Remarque is not presenting these boys as being fearless and facing down enemy fire with straight faces, but instead makes these soldiers human. They feel fear and are terrified in the face of death. There is no glory in Remarque's presentation of life during the war. This contradicts the image that Nazis wished to present to the German people. Many Nazis criticized Remarque for this piece of literature, stating he "degraded the German language and the highest patriotic ideal."⁵³ For Nazis, Germany was a unified, heroic, and brave nation. It could not allow books that promoted the "Un-German" spirit. By burning *All Quiet on the Western Front* Nazis were able to erase a history that they deemed unacceptable. Both Remarque and Mann took the German nation and pointed to its flaws, which fostered intense feelings of anti-Nationalism. These works of fiction highlighted very real issues,

⁵² Ibid. 71-72.

⁵³ Bosmajian, *Burning Books*, 163.

but nevertheless threatened the image that the Nazi regime was trying to cultivate. By understanding the content and messages of these novels, a clearer picture begins to form as to why these novels threatened the Nazi agenda.

Fictional works were not the only pieces of literature that were subjected to the May 10 book burnings. Essays and studies by prominent doctors and philosophers were burned as well. Walter Benjamin (1892-1940) was a Jewish German philosopher, who wrote countless essays on a variety of topics. One of his many essays was "Theories of German Fascism," which he wrote in 1930. This would have been included in the literature burned by the Nazis. While understanding Benjamin's literature is important for grasping the mindset of Nazis during the time period, the biggest issue that Nazis had with Benjamin was that he was Jewish. To Nazis it would not matter what he wrote, it was simply enough that he was a Jewish author, and therefore any of his works were to be considered "impure" and "un-German."⁵⁴ Any work written by a Jewish German was subjected to the nations ethnic cleansing.⁵⁵ Benjamin, as with Heinrich Mann, fled Germany in 1933 to escape the rising anti-Semitism.⁵⁶ It becomes apparent that the 1933 book burnings were not only interested in destroying literature that attacked the nation, but the burnings were also used to erase any literature produced by prominent Jewish Germans. The "Action Against the Un-German Spirit" became an event by which Nazis could increase the fervor of their hatred towards Jews.

By examining Walter Benjamin's "Theories of German Fascism," it can be seen that its content would have been deemed unfavorable

⁵⁴ Rebecca Knuth, *Burning Books and Leveling Libraries: Extremist Violence and Cultural Destruction* (London: Praeger, 2006), 31.

⁵⁵ Bosmajian, *Burning Books*, 211.

⁵⁶ Dennis, *Inhumanities*, 50.

to the Nazi regime. Benjamin's essay engages with work by Ernst Jünger, while also critiquing the loss of the First World War and its impact on Germany.⁵⁷ Benjamin argues that authors who wrote on the First World War were unable to connect their experiences of the war with reality.⁵⁸ This blurring of fact and memory presented the war in a more heroic light. However, Benjamin states that there was nothing heroic about the war. He fears that the First World War will turn future wars into a game, and that "all action will lose its military character, and war will assume the countenance of record-setting."⁵⁹ Benjamin is relating anxieties surrounding future conflicts, where the objective, instead of defending one's nation, turns into an offensive strategy to kill as many of the enemy as possible.

Benjamin continues to criticize the war by looking at the doubled meaning of defeat. He explores the double meaning of defeat in terms of the actual loss of the war, but also in terms of how the loss then changed the significance it held for the nation. The loss of the First World War became intimately tied to the concept of Germanness.⁶⁰ Germany continued to celebrate the "cult of war" but instead of finding external enemies, they sought enemies from within. These enemies, the Jews, then became responsible for the decline of the nation.⁶¹ At the end of his essay, Benjamin makes a startling claim. He says, "If this corrective effort fails, millions of human bodies will indeed inevitably be chopped to pieces and chewed up by iron and gas."⁶² These words seem prophetic to the horrors

⁵⁷ Walter Benjamin, "Theories of German Fascism," 1930, in *Walter Benjamin, Selected Writings: Volume Two, 1927-1934*, ed. Michael W. Jennings, Howard Eiland, and Gary Smith (Cambridge: The Belknap Press of Harvard University Press, 1999), 312.

⁵⁸ Benjamin, "Theories of German Fascism," 313.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.* 315.

⁶¹ *Ibid.* 316.

⁶² *Ibid.* 320-321.

that would be unleashed upon Germany within the decade. Benjamin's essay draws attention to the rising anti-Semitism within Germany during the 1930s. He also criticizes the war, and Germany's subsequent loss. That is not something that the Nazis would want out in the public sphere. Literature, like "Theories on German Fascism" appears to have been burned because of its anti-Nationalist messages, but also for anti-Semitic reasons as well. The fervor of the book burning added the fuel towards the hatred of Jews.

Magnus Hirschfeld (1868-1935), as with Walter Benjamin, was a Jewish German.⁶³ His work was burned due to intense anti-Semitic ideologies. However, Nazis also destroyed his literature because all of his subject matter dealt with sex and sexuality, particularly homosexuality, which Nazis deemed perverse and disgusting.⁶⁴ Nazis actually placed the blame of homosexuality on Jews, by arguing that Jews were responsible for corrupting German culture by introducing homosexuality.⁶⁵ Hirschfeld, as the foremost expert on sexuality, and as a Jew, was attacked several times throughout his life in Berlin.⁶⁶ On May 6, 1933, Nazi students purged Hirschfeld's Institute for Sexual Science of all perverse literature. They burned everything they could get their hands on, including a bust of Hirschfeld himself. Four days later, on May 10, more of Hirschfeld's work was burned across Germany.⁶⁷ It is important to understand Hirschfeld's background before delving into his work, *The Sexual History of the World War*. Hirschfeld suffered the largest attack during the 1933 book burnings, and it is pertinent to understanding why Nazis wanted to silence and censor his work.

⁶³ Knuth, *Burning Books and Leveling Libraries*, 102.

⁶⁴ *Ibid.* 104.

⁶⁵ *Ibid.* 109.

⁶⁶ *Ibid.* 107.

⁶⁷ *Ibid.* 112.

The Sexual History of the World War was published in 1930. Hirschfeld argues that during wartime sexual restraints all but vanish.⁶⁸ German citizens had much more sexual freedom during the First World War. Hirschfeld does not condemn this freedom. Instead he states that it is human nature, which drives sex. "At its core, human nature consists of instinctive impulses which are the same in all men, and are directed toward the satisfaction of certain primitive needs."⁶⁹ Sexual desire and appetite was not something that should be controlled or restricted. Everyone had needs that required attention. The war merely provided different outlets for that satisfaction. For Hirschfeld, it was not disgusting or perverse for men to seek satisfaction with women or other men. Especially during the war, when men were together in the trenches, sexual intercourse did occur. However, other forms of relief included masturbation and pornographic products issued to the soldiers, such as pictures and literature. The literature was argued, however, to poison young minds, because authors presented hysterical or dominated relationships to young men who had never had a sexual relationship before, and were being informed by these grand tales.⁷⁰ Much of *The Sexual History of the World War* discusses male sexuality, and the positive and negative outcomes that the war had on their sex lives.

While his area of expertise was with men, and homosexuality, Hirschfeld was nevertheless interested in women and their erotic desires. He focuses on women who worked and lived near the trenches, since those were areas that he deemed as more sexually charged.⁷¹ Hirschfeld, however,

⁶⁸ Magnus Hirschfeld, *The Sexual History of the World War*, 1930, trans. Magnus Hirschfeld and Andreas Gasper (New York: The Panurge Press, 1934), 21.

⁶⁹ Hirschfeld, *The Sexual History of the World War*, 27.

⁷⁰ Ibid. 79-80.

⁷¹ Ibid. 156.

discusses the repercussions of the war on women's sexuality, in that many women had to sell their bodies to soldiers and officers to make enough money to eat. Hirschfeld states, "They were prostituted by the greatest pander in the world, namely—war."⁷² Even while he discusses the heavier side of sexual relations during the war, Hirschfeld concludes that society can look to the future with confidence and "envisage the new morality which the progressive youth of today, the men and women of tomorrow, will erect upon the ruins of the old."⁷³ Hirschfeld had hope that sexuality would become freer in the future. Unfortunately many of these topics were considered taboo. Nazis regarded Hirschfeld's work as 'smut' and that these subjects should not be discussed at all. Both Benjamin and Hirschfeld's literature was destroyed so that the rising Nazi regime could ignite and spread their anti-Semitic ideologies. Benjamin was looked down upon because of his anti-Nationalist messages, while Hirschfeld discussed impure, perverse and disgusting subject matter.

By exploring the historiography surrounding the book burning on May 10, 1933, and the content of the books burned, I have strived to better understand why Nazis chose the books that they did. The literature seems to reflect the fears and apprehensions the Nazis had about anti-Nationalist ideologies and taboo subjects, such as sex and sexuality. It is also apparent that the Nazi used the book burnings to spread their anti-Semitic agenda,

⁷² Ibid. 170.

⁷³ Ibid. 351.



by burning any work by Jewish authors, regardless of content. It is important that the “Action Against the Un-German Spirit” be placed in its larger context, so that its importance in regards to literature in Nazi Germany can be understood. It is equally vital that the book burnings of May 10, 1933 are discussed as an event in and of itself, and that the literature is analyzed instead of glossed over. That way we can move one step closer to understanding the mindset of Nazis during a crucial point in their rise to power



“In the Twilight of an Empire:
The Creation of Hong Kong Identity in the Cold War,” by Darren Leung

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In 1842, Captain Charles Elliot, RN, stepped onto the shores of a small island in Southern China and claimed it for the British Empire. For more than a century this unimportant island that the Foreign Secretary, Lord Palmerston, had contemptuously called “a barren rock” grew into one of the most important financial centres in the world. When the colony was finally returned on July 1st 1997, the British had overseen the transformation of this sleepy fishing village into a bustling metropolitan centre. Hong Kong can be seen as a rather unique case of British colonialism because there were almost no settlers, and decolonization occurred without independence. Thus the Chinese locals of the city have been just as important in shaping the history of Hong Kong as the colonial administration was. China’s close proximity to Hong Kong has left an indelible mark on the city’s history as well. The Cold War became a period of separation from the mainland as China was destabilized by the tumultuous Mao Era while Hong Kong mostly watched on. How the people of Hong Kong have understood their identity has thus been shaped by influences from Mao’s China, the British colonial government, and traditional Chinese ideas.

The events of the Cold War have been the major factor in creating a distinct Hong Kong identity. The Cold War created a sense of ‘otherness’ towards the People’s Republic of China (PRC) among the people of Hong Kong. Hong Kong evolved from a place of refuge in 1949 to place with its own unique identity. The Chinese Communist Party’s (CCP) victory

in 1949 led to millions of refugees pouring into the city, each of them drawing identity not from Hong Kong, but from their many different hometowns. Through three major events and several generations, the people of Hong Kong developed a sense of ‘otherness’ towards the PRC, which in turn created an understanding of what it meant to be a Hong Konger. The first of these events was the 1967 riot, which was spurred on by the Cultural Revolution in China. The violence of these disturbances thoroughly discredited Maoism in Hong Kong. Secondly the reforms against corruption in the late 1960s-1970s created a civic pride and sense of incorruptibility among the people of Hong Kong. What was once seen as part of traditional Chinese gift giving practices changed into being something morally and legally wrong. A milestone in this campaign against corruption was the creation of the Independent Commission Against Corruption (ICAC) in 1974. Although it was framed in the paternalistic language of empire and colonialism, the creation of the ICAC was very much a response by the colonial government to demands for change among the people of Hong Kong. Finally the Tiananmen Square Incident in 1989 solidified a sense of ‘otherness’ towards the PRC and proved to Hong Kong that China had not changed from its brutal, authoritarian models that had nearly destroyed the country during the Mao Era, which resulted in demands for further representative government through mass protest. These protests demonstrated that Hong Kong had different political inclinations from the PRC. Hong Kong’s identity thus rests

on the creation of 'the other' (i.e. the PRC) in the collective imagination through these pivotal moments of the Cold War and on the imagination of the best British values of freedom and rule of law.

Using documents from the colonial administration, this study will examine Hong Kong identity chiefly through the perspective of the colonial elite. Documents from the British Empire have often been viewed as protective and paternalistic, and these views definitely permeate in colonial Hong Kong sources. However, the precarious position the British found Hong Kong after World War II coupled with the collapse of the British Empire forced them to respond to the changing demands of the local population. Hong Kong identity can be traced through the subtle nuances in the way the British presented changes in their policies towards locals.

The rapid collapse of the British Empire after World War II proved to be traumatic to the British national consciousness. They had ruled the greatest empire in the world at the start of the twentieth century, with the Empire reaching its greatest geographic extent in the years after World War I.¹ The relatively peaceful decolonization of the Empire was less traumatic than in other global empires such as the French, which fought several costly and ultimately futile wars. However, the British still had to reconcile their national identity with the new state of world affairs during the Cold War. They were no longer the superpower of the world, that position had been supplanted by the United States and the Soviet Union.

The collapse of the British Empire after the Second World War was a significant factor in shaping the ideas of the colonial elite. The situation Britain was in after the war required

¹ Judith M. Brown, "Epilogue," *The Oxford History of the British Empire: The Twentieth Century*, Judith M. Brown and WM. Roger Louis, eds. (Oxford and New York: Oxford University Press, 1999), 703.

the colonial elite to reimagine the British Empire. The goal of the Empire had always been to better the world according to its supporters. In the nineteenth century this goal manifested itself in the mission to "civilize" the lesser nations of the world. It was far less important for the British to critically examine themselves and the empire at its height, but in the last years of the Empire new myths and a specific purpose had to be attributed to the Empire in order to reconcile it with British identity. The broad "civilizing" mission was refashioned into the goal of establishing democratic roots and the rule of law in the new post-colonial nations.² The British viewed their new role as that of a caretaker, guiding the new nations towards a free and democratic society. In many ways this was a myth to mask international weakness in the British imagination and identity.³ The reality of it was that the British often constructed democratic and legal institutions in great haste as they departed from former colonies, which meant these institutions were often supplanted with more autocratic governments. Yet the ideals of democracy and rule of law often lingered in the minds of the former subjects and these ideas returned with a force to haunt dictators and one-party states.⁴

The early history of Hong Kong was written by the British elite in a very Anglo-centric model which praised British administration for bringing order and law to a chaotic and disorganized area of the world. For observers in the 1950s-1960s, the PRC, with its mass campaigns and the general chaos it caused seemed to justify the British colonial administration. E.B. Endacott's *A History of Hong Kong* (1964) typifies this elite view. Describing British rationale for acquiring Hong Kong, he writes that "the island [of Hong Kong] was taken over reluctantly, primarily for the

² Ibid, 707.

³ Ibid.

⁴ Ibid, 705.

purpose of establishing the necessary organs of law and order and administration..."⁵ In a similar vein, Endacott writes in the *Hong Kong Annual Review, 1954* that "the history of Hong Kong in the post-war period is a record of great achievement in every phase of endeavour..."⁶ As Endacott demonstrates, the colonial elite of the 1950s-1960s viewed themselves as the harbingers of progress, and in many ways this view permeated government publications well into the last years of British colonial government. The local people of Hong Kong are thus seen as passive actors by the elite, but through subtle changes in tone as the Cold War progressed, the British realized the locals were not the passive actors they imagined them to be. This perspective that the colonial elite used needs to be understood in the context of the British Empire's end.

This study of Hong Kong identity builds on a relatively new field, with interest on it starting in the 1980s as Sino-Anglo discussions were underway over the fate of the city after 1997. Concepts such as the "Three Legged Stool", which consisted of the local people of Hong Kong, the colonial administration, and the People's Republic, became a destabilizing force in the negotiations as China refused separate representation at the negotiations for the locals.⁷ Many political science studies thus gave a cursory examination of how a unique Hong Kong identity affected negotiations. It is only in the last two decades after the handover that a serious study of Hong Kong has begun, especially after jarring differences between

locals and mainlanders became apparent. This study seeks to understand how the gulf between these two groups emerged, and also explores the ideas of Chinese nationalism and what it means to be Chinese in Hong Kong.

Another destabilizing element of Hong Kong identity was the concept of Chinese identity. As simple as this seems, there have always been varying ways of conceptualizing "Chineseness" throughout China's history. Examples of this range from the Turkic Tang Dynasty often touted as the greatest of China's dynasties to the highly Sinicized Qing Dynasty who were Manchurian in origin. The situation remains the same in Hong Kong and other Chinese enclaves around the world. The PRC designated the people of Hong Kong as *tongbao*, or 'compatriots', which was different from *huaqiao* (Overseas Chinese) and *huaren*, the generic name for Chinese.⁸ The fact that the PRC viewed Hong Kongers as 'compatriots' illustrates their perception of Hong Kong as being the same as themselves. Compatriots evoke a sense of national unity, especially in political views (interestingly the PRC also designated Taiwanese as compatriots).⁹ This belief, however, was far from the truth. The idea of Chinese identity has manifested itself in many forms, but there has always been a greater sense of Chinese identity through unified cultural touchstones, mostly rooted in Confucian ideals. The imbroglio during the Sino-Anglo negotiations and its aftermath was thus a result of multi-faceted identities for all parties involved. They were all negotiating a new sense of identity that had been developing throughout the Cold War: the British had to understand their new place in the world following the collapse of the British Empire, the Chinese were adjusting to their rising place in the world as economic reforms took off in the 1980s, and the people of Hong Kong tried

⁵ G.B. Endacott, *A History of Hong Kong* (London and New York: Oxford University Press, 1964), vii.

⁶ Hong Kong Government (1955), *Hong Kong Annual Review 1954* (Hong Kong: Government Printer, 1955), 268.

⁷ James Tang and Frank Ching, "The MacLehose-Youde Years: Balancing the "Three-Legged Stool, 1971-1986" in *Precausal Balance: Hong Kong Between China and Britain, 1842-1992* Ming K. Chan ed. (London: M.E. Sharpe, 1994), 149.

⁸ Yahuda, *Hong Kong*, 52.

⁹ *Ibid.*

to define their place in the world; not fully Chinese, but neither were they British.

Hong Kong has always been viewed by the British as a place of refuge in the turbulent world of East Asia. As discussed above, the British believed only their administration and law could provide an orderly place for them to conduct business in the otherwise chaotic China. Indeed, the city had had a long history of providing refuge since the nineteenth century starting with the Taiping Rebellion. On this subject, the *1954 Review* writes that “with the spread of unrest in China following the Taiping Rebellion, many thousands of Chinese flocked to Hong Kong, the first of many similar occurrences when Chinese in search of better have sought the security and sanctuary of this Colony.”¹⁰ Thus Hong Kong has been seen by both the British and Chinese for much of its colonial history as a place of refuge, which meant that its residents were more transient in nature.

Prior to 1949, Hong Kong identity was nebulous, but still often linked to the larger movement of Chinese nationalism which had been developing since the late nineteenth century. As John Carroll argues, the Chinese of Hong Kong in the first half of the twentieth century had a myriad of mixed identities tied to class, language, and culture, all of which were not well defined.¹¹ Yet, many in Hong Kong had strong feelings for Chinese nationalism, as demonstrated by an overwhelming support of Guomindang (GMD) troops as they passed through the city in 1945.¹² Everything changed in 1949 when the Chinese Communist Party (CCP) won the civil war. Millions of refugees poured into the city to escape the Communists. The colonial government estimated that there were

between 500 000 to 600 000 residents when the city was retaken in 1945 from the Japanese. By 1948, as the tide turned against the GMD, there were approximately 1.8 million people and it ballooned to an estimated 2.36 million in 1950.¹³ Thus Hong Kong became a city of refugees after 1949, with over half of the population being born outside of the city. This point is significant because this group of refugees, like their predecessors, never saw Hong Kong as their permanent home, but rather saw it as a transient place, waiting for the day to return to the mainland when the political situation stabilized.

Since Hong Kong was seen as a “lifeboat” and not a permanent place of residence, refugees felt their identities were tied to the mainland. As one refugee wrote “each man...is a transient, claiming as his origin a village back in south China, refusing to belong to the Colony...with few exceptions, those who come [to Hong Kong] regard themselves as on the way to somewhere else.”¹⁴ Thus refugees fleeing the communists had no affinity for Hong Kong or a sense of civic pride that would be exemplified in their children. This transience can be seen in 1962 during the “May exodus” as people from the mainland fled from the disaster of the Great Leap Forward when many people from Hong Kong helped this new wave of refugees get to Hong Kong.¹⁵

The Great Proletarian Cultural Revolution spread to Hong Kong in 1967 in the form of the leftist riots, which lasted for eight months. The mass movement had begun as part of Mao’s grand vision of purifying communist society of ‘bourgeoisie’ elements. On June 1, 1966 *the*

¹⁰ Hong Kong Government, *1954*, 258-259.

¹¹ John Carroll, *Edge of Empires: Chinese Elites and British Colonials in Hong Kong* (London and Cambridge, Massachusetts: Harvard University Press, 2005), 112.

¹² Jan Morris, *Hong Kong* (New York: Vintage Books, 1989), 322.

¹³ Hong Kong Government (1955), *Annual Review*, 16.

¹⁴ J.S. Hoadley, “Political Participation of Hong Kong Chinese: Patterns and Trends,” *Asian Survey* 13 (1973): 613, quoted in Gordon Matthews, Eric Kit-Wai Ma and Tai-lok Lui, *Hong Kong, China: Learning to belong to a nation* (London and New York: Routledge, 2008), 28.

¹⁵ Gordon Matthews, Eric Kit-Wai Ma and Tai-lok Lui, *Hong Kong, China: Learning to belong to a nation* (London and New York: Routledge, 2008), 29.

People's Daily, a government newspaper, issued a proclamation that called for the purging of all 'imperialists.'¹⁶ The ensuing chaos as the country tore itself apart set China back by decades. The young attacked the old, Party and government structures were torn down and general anarchy reigned in China as nearly all government functions ceased. Yet Premier Zhou Enlai told the CCP in Hong Kong to restrict Cultural Revolution activities to the Mainland.¹⁷ The situation changed in December 1966 when the Cultural Revolution finally reached Macao, the neighbouring Portuguese colony. On December 2 and 3, leftist demonstrators protesting Portuguese colonial policies stormed the Government House. The police failed to contain the situation and the Municipal Council Building and the statue of Coronel Mesquita, both symbols of Portuguese power, were destroyed.¹⁸ Both the British and CCP in Hong Kong saw that the Portuguese never really regained control of the colony.¹⁹ The radicalization of the Chinese Foreign Ministry was the final step to allowing radical movements to happen in Hong Kong. The Foreign Minister Chen Yi was attacked by the Red Guards and forced to make a self-criticism, along with backing the revolutionary line. The Politburo was replaced by a radical Cultural Revolution leadership dominated by Mao's wife, Jiang Qing. Even Premier Zhou's position appeared unsafe for a time.²⁰ It was in this period of radicalism and anarchy in the government that the leftists under the CCP struck in Hong Kong.

¹⁶ Christine Loh, *Underground Front: the Chinese Communist Part and Hong Kong* (Hong Kong: Hong Kong University Press, 2010), 100.

¹⁷ *Ibid*, 101.

¹⁸ Robert Bickers, "On not being Macao(ed) in Hong Kong: British official minds and actions in 1967," *May Days in Hong Kong: Riot and Emergency in 1967* (Hong Kong: Hong Kong University Press, 2009), 56.

¹⁹ *Ibid*, 102.

²⁰ *Ibid*, 103.

The 1967 riots in Hong Kong was a watershed moment in distancing Hong Kong from the PRC and Maoism in general. Initially begun as a protest against poor working conditions in the Colony, leftists inspired by Mao's call for revolution in 1966 that resulted in the Cultural Revolution led the more violent phases of the disturbances. On July 8th, 1967, some People's Liberation Army(PLA) militia crossed the border into Hong Kong and the resulting clash killed five Hong Kong policemen. The situation further escalated on 20th August, when the British Embassy in Beijing was burned down and its staff beaten, supposedly on the orders of the Foreign Ministry. In the summer of 1967, a series of bombing campaigns by the leftists led the Colonial administration to declare martial law. The city was still in a precarious position as there were fears that Beijing would invade the Colony to support the leftists. It was only when Premier Zhou Enlai called for moderation in Hong Kong that the British responded to the leftist threat more forcefully, knowing that CCP leadership did not condone violence in the city, nor did it plan on providing aid to the leftists.²¹ The British placed the blame for the riots solely on Maoist Thought and believed that these riots had little political support both within the Colony and from the People's Republic. The 1967 review writes that "...communist organizations in Hong Kong have sought to impose their will on the government..." and that "the overwhelming majority of the people have shown clearly they support the government and the maintenance of law and order."²² The British saw the disturbances of 1967 as a localized event, and that the majority of the people were apolitical

²¹ Lawrence Cheuk-yin Wong, "The 1967 riots: A legitimacy crisis?" in Robert Bickers and Ray Yep, ed. *May Days in Hong Kong* (Hong Kong: Hong Kong University Press, 2009), 40-42.

²² Hong Kong Government, *Hong Kong Annual Review 1967*, (Hong Kong: Government Printer, 1968), 1.

and enjoyed the order and stability that the colonial administration provided.

In his account of the riots of 1967, John Cooper discusses the situation in the way the British elite understood it. He writes that colonial disturbances involve the colonial and home administrations, and the aggrieved party, but:

in a twentieth century alive to anti-colonial movements to the pursuit of national independence and to the appeals of 'oppressed' peoples for some form of recognition a fourth party intervenes to pledge its support for the aggrieved element. This fourth party is usually a major power with views diametrically opposed to those of the colonial and home government.²³

This passage demonstrates the elitist attitudes of the British, who continue to speak in the vocabulary of imperialism as their last vestige of empire is thrown into chaos. The quotation marks over the word oppressed demonstrates the paternalistic and imperialistic attitudes of the British, who obviously question the validity of opposition to their colonial regime. As discussed above, the British always described their role in Hong Kong as providers of peace and prosperity, which were resulted from their good governance, and fair, effective legal systems. Cooper subtly implies this and writes that:

The legal system itself was founded on the principles of English Common Law and equity and the statues of England as they were when Hong Kong became a colony in 1843...As a result of the very close links between the governments of the Colony and the United Kingdom the policies of both are generally at one; indeed a Governor who constantly

²³ John Cooper, *Colony in Conflict: The Hong Kong Disturbances, May 1967- January 1968* (Hong Kong: Swindon Book Company, 1970), 55.

disobeyed the will of the Executive Council or the British Government would be recalled.²⁴

This reveals that Cooper views the aim of the Hong Kong government and that of the home government to be the same, and that the British sought only to provide the best. This demonstrates a lack of understanding by the colonial elites to how severe social and financial problems were for the Chinese of Hong Kong. The British, clouded by their sense of imperialistic paternalism, lay the blame for the riots solely at the feet of Communist agitation from China.

Witness testimonies from eye-witnesses during the riots provide a different perspective. Chow Yik, a reporter for the leftist newspaper *Wen Wei Po*, recalls that "fore the people at the grass root, we described what happened as an anti-British/anti-colonial struggle."²⁵ Chow's statement here demonstrates that the leftists were not all unified in their support for Maoism. Some simply felt that the inequality of the colonial state had to be resolved. Most people did end up supporting the colonial government, but Chow illustrates the draconian measures in this period and the foreboding sense of fear, saying that "I had to be prepared for arrest...Dozens of members of the [Hong Kong Plastic Workers'] Union were arrested and two of them were beaten to death in the police station."²⁶

Luk Kai Lau, a police officer during the riots, also provides an alternative perspective. He says that "...we policemen were victims too because we were used as 'political tools.'²⁷ This statement from a police officer illustrates that the people of Hong Kong were not apolitical, as the British believed they were, nor were they content with the 'refugee mentality' that their parents had. Rather, this

²⁴ Ibid, 57.

²⁵ Bickers, *May Days*, 165.

²⁶ Ibid, 165-166.

²⁷ Ibid, 169.

new generation on Hong Kong people began to view events in terms of politics and ways of understanding their identity. As Luk demonstrates, his role as a police officer in the colonial government conflicted with his status as a person of Hong Kong. He demonstrates that there was general support for the police though, and recalls that:

In my generation, we are lucky to have the support of the business sector and local people. They knew that the survival of Hong Kong was dependent on the morale of the police force. It was touching to see them giving us soft drinks, sandwiches and cakes, when we finished our job outside the Hilton Hotel.²⁸

It can be seen through a sample of witness testimonies that there was a sense of “Hong Kongness” being developed through this episode, as both leftists and policemen did not adhere to the roles of Maoists or colonial officers, but had more murky, local, understandings of their roles.

The riots of 1967 proved to be the first serious challenge to British authority in Hong Kong since the communist takeover of China in 1949, and confirmed perceptions of the violent nature of the CCP and Maoist-thought in general. As Ian Scott writes, “faced with a choice between communism of the Cultural Revolution variety and the, as yet, unreformed colonial capitalist state, most people chose to side with the devil they knew.”²⁹ The riots thus removed the illusion for both the British and Hong Kong Chinese that the city was an apolitical refuge. The revolution had come to Hong Kong and the people rejected it. The riots were a product of the Cultural Revolution and it demonstrated to Hong Kong the violence and chaos of China. This point distanced the

²⁸ Ibid, 170.

²⁹ Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong* (Honolulu: University of Hawaii Press, 1989), 104.

people from China and made it “the other” rather than the British government. John Carroll provides an anecdote of this phenomenon. In the 1970s as a teenaged student, he had invited his Chinese friend to a demonstration against government corruption. His friend replied in the negative, saying that “...he had no interest in any such activity...people...should appreciate how good conditions were in colonial Hong Kong, especially compared with Mainland China.”³⁰ In another instance, Carroll recalls the Queen’s visit to Hong Kong, which his “...Chinese classmates were all excited about...better Queen Elizabeth than Chairman Mao, they insisted.”³¹ These responses Carroll received demonstrate a contempt towards China, and a view that it had become “the other” while the colonial state had become a place of law and order.

The people of Hong Kong, however, slowly grew to resent the rampant corruption that existed within the colonial government, especially when many colonial officials were profiting off it. Finally, the children of the refugees who fled China in 1949 had reached adulthood by the late 1960s and had no experience with the corrupt practices of the mainland, nor did they see Hong Kong as a transient, temporary residence, but rather saw it as their home. Following the riots of 1967, both the elite and the people called for massive reforms for the colonial administration. The elite particularly felt that if the situation was not improved another incident like that of 1967 would happen again. Brook Bernacchi, Urban Councillor and chairman of the Reform Club wrote that “more riots ‘a repeat performance of 1967’ will happen as a result of the government’s broken promises...the Hong Kong-born younger generation living in an atmosphere of frustration will be in the saddle by the time of the next crisis. They will not

³⁰ Carroll, *Edge of Empires*, vii.

³¹ Ibid.

back the government.”³² It can be seen here that even the elites recognized that the younger generation would not accept the status quo that their parents had endured for they had higher expectations of what British law could provide. The principal welfare officer of the Social Welfare Department echoed this sentiment and wrote that “youngsters are an integral part of our society. We must help them towards a greater awareness of their role,” and called for more government spending for youth programs.³³ Thus the colonial elites recognized that although Maoism had been discredited, Hong Kong locals demanded change from the administration.

Although Maoism had been rejected in 1967 by the majority of the population, the colonial administration recognized the social ailments that had been a catalyst for the riots that leftists were able to take advantage of. Poor working conditions, lack of proper housing, and poor sanitary conditions were all sources of resentment. But the biggest problem facing Hong Kong since the post-war period was corruption. Corruption was rampant in the Colony, and often times even the most trivial services such as getting a bedpan at a hospital required an extra “fee” or “incentive.”³⁴ The social inequality caused by corruption was initially acceptable to the refugees that came after 1945. They had their own cultural expectations about government corruption as the mainland had been notoriously corrupt.³⁵ The cultural understanding of corruption was difficult to change in Hong Kong, which was one of the greatest challenges of tackling it. In

³² Wong, “1967 Riots”, *May Days*, 45.

³³ *Ibid.*

³⁴ Independent Commission Against Corruption, *Operations Department 40th Anniversary Review: 1974-2014* (Hong Kong: ICAC, 2014), 12.

³⁵ Melanie Manon, *Corruption by Design: Building Clean Government in Mainland China and Hong Kong* (Cambridge, Massachusetts and London: Harvard University Press, 2004), 31.

the late 1960s, Sir Alastair Blair-Kerr, a senior judge, was commissioned to lead a committee to inquire about corruption and measures to stop it. In his report he includes this popular analogy about corruption:

1. “Get on the bus” i.e. if you wish to accept corruption, join us,
2. “Run alongside the bus,” i.e. if you do not wish to accept corruption, it matters not, but do not interfere;
3. “Never stand in front of the bus” i.e. if you try to report corruption, the “bus” will knock you down and you will be injured or even killed or your business will be ruined. We will get you somehow.³⁶

Thus there was deep-seated belief in Hong Kong among all classes that corruption was a daily part of life.

The issue of corruption had been viewed by the elite as a problem stemming from traditional Chinese practices such as ‘gift’ giving. In an academic study, Rance Lee, using empirical data from polls argued that older and less educated people were more willing to accept corruption as part of the norm while younger and more educated people would not because of their Westernized outlook.³⁷ Although Chinese culture may have made corruption acceptable to the older generation, it is also important to note that the older generation also viewed Hong Kong with the ‘refugee’ mentality, something the young of Hong Kong would no longer accept.

Ironically it was the corruption of a British police superintendent that spurred the Colonial Administration to act against corruption. Peter Godber joined the Hong

³⁶ Sir Alastair Blair-Kerr, *Second Report of the Commission of Inquiry under Sir Alastair Blair-Kerr* (Hong Kong, Government Printer, 1973), 24.

³⁷ Rance P.L. Lee, “Incongruence of Legal Codes and Folk Norms,” in *Corruption and Its Control in Hong Kong: Situations up to the Late Seventies* Rance P.L. Lee editor (Hong Kong: The Chinese University Press, 1981), 83-87.

Kong Police in 1952 and by 1973 he was second in command of the Kowloon District. A routine query from a Canadian bank on account activity brought his ill-gotten gains to attention. The large sums he had hoarded away were in violation of the Prevention of Bribery Ordinance which made it an offence to have assets disproportionate to one's income unless there was a satisfactory explanation.³⁸ The anti-corruption office (ACO) provided Godber a week to present evidence that the money was legitimate. In that time Godber fled Hong Kong with approximately four million Hong Kong dollars (c. US \$780 000), most likely bypassing Immigration Control. In London he was safe with his money as he was indicted for an offence that did not exist in British law. The Godber case represented rampant police corruption, government incompetence or even complacency. There was general uproar and protests against this case of corruption; students launched a protest campaign to extradite Godber.³⁹ The *Hong Kong Law Journal* wrote that "the ordinary man in the Hong Kong street quite fairly thinks it monstrous that a senior British official should be able to commit a serious criminal offence in the Colony and then be permitted to enjoy his ill-gotten wealth in Britain, safe under the protection of British Law."⁴⁰ The protests in both the papers and on the streets thus demonstrated that the people of Hong Kong expected more from the Colonial Government.

In response to the public outcry, Governor MacLehose agreed that the ACO, which was a branch of the police, was ineffective. On February 15th, 1974 the Independent Commission Against Corruption (ICAC), an organization separate from the civil service and answered only to the governor, was

³⁸ Manon, *Corruption*, 32-33.

³⁹ Ibid.

⁴⁰ "Godber (editorial) *Hong Kong Law Journal*, 3, no. 3 (September), 249.

founded.⁴¹ The ICAC fought corruption with three methods: operations, prevention and education. Operations was responsible for investigating cases of corruption. Prevention looked at areas in the government that were susceptible to corrupt practice and sought to reform them. Education sought to teach the people of Hong Kong that corruption was a morally wrong act and fought against 'traditional' Chinese notions on gift giving.⁴² The ICAC thus sought to not only root out corruption as a practice, it aimed at reforming Hong Kong society. Governor MacLehose thus said upon announcing the decision to establish the ICAC that "The Commissioner [of the ICAC] will therefore have a civil unit whose main task will lie in educating the public as to the evils of corruption not only from the point of view of the recipient but also from that of the giver."⁴³ This decision to educate Hong Kong reflects the governor's goal of a "quiet revolution" in Hong Kong society. Although Chinese culture had been seen as a cause of corruption, the desire for change also came from the young. This had been demonstrated in the protests for the extradition of Godber and the protests that ensued in the wake of the case. The fact that the young wanted reform was not lost to British officials. Jack Cater, the first commissioner for the ICAC, wrote that "the younger generation in particular appears determined to have a clean and better Hong Kong..."⁴⁴ Three years later, Cater comments on the state of the ICAC's efforts and said that "I believe that the community has a right to expect an honest and efficient civil service and that we must focus our attention on the Government first."⁴⁵ Cater's comments

⁴¹ J. Cater, *Annual Report on the Activities of the Independent Commission Against Corruption for 1974* (Hong Kong: Government Printer, 1975), introduction.

⁴² ICAC, *Operations Department*, 17.

⁴³ Ibid, 17.

⁴⁴ Ibid, 25.

⁴⁵ ICAC Press Release, February 15, 1977, quoted in Jeremiah K. H. Wong, "The ICAC and Its Anti-corruption

illustrates a changing Hong Kong identity; the young no longer accepted the status quo that their refugee parents had and expected more from the Colonial Government. Thus the fight against corruption was both inspired from above in the elite circles of government and below in the voices of the young. The decision to combat corruption was not merely a decision by the British to create clean government because of their ideals, but was a response to Hong Kong's resentment towards corruption.

As the colonial state reformed itself, the people of Hong Kong grew to rest their identity in the city as their true home. Identity thus rested in a well-run state and a strong economy. The British had always emphasized their role in creating a strong economy in Hong Kong by providing the framework that resulted from law and order. Hong Kong thus grew to accept civic freedoms and clean government as the norm. In 1984, after years of difficult negotiations, the PRC and UK signed the Sino-Anglo Joint Declaration that agreed to Hong Kong's return to China on July 1st, 1997. Prior to this agreement, investors had been worried that their capital would be at risk due to the takeover. Deng Xiaoping had vaguely addressed these issues by telling them to "put their hearts at ease"⁴⁶, but it was the agreement that gave a concrete outline for Hong Kong's future. Although the economic structure and viability of Hong Kong had been a major issue during the negotiations the rights and freedoms Hong Kong had experienced for the last fifty years were also an issue that had to be addressed. In the Basic Law (Hong Kong's new constitution under China), which was agreed upon in the Declaration, it states that "The Hong Kong

Measures," *Corruption and Its Control in Hong Kong: Situations Up to the Late Seventies* (Hong Kong: The Chinese University Press, 1981), 61.

⁴⁶ Ezra F. Vogel, *Deng Xiaoping and the Transformation of China* (Cambridge, Massachusetts: Belknap Press of Harvard University Press, 2011), 492.

Special Administrative Region should maintain the rights and freedoms as provided by the laws previously in force in Hong Kong, including freedom of the person, of speech, of the press..."⁴⁷ This demonstrates that the laws and freedoms of Hong Kong that had developed over the course of the Cold War were important enough to be addressed and that China could not simply sweep them away without alienating Hong Kong.

In May of 1989 students in Beijing gathered outside Tiananmen Square, demanding democratic reforms. The demonstrations in China in May-June of 1989 which culminated in the violent crackdown in the Tiananmen Square Incident proved to be a turning point in Hong Kong-China relations, and in distancing China further in the collective imagination of identity by Hong Kong people. Governor Wilson wrote in his annual address to the Legislative Council that "we have...seen intensified discussions about the right pace of progress towards a directly-elected legislature and calls for the early introduction of a Bill of Rights."⁴⁸ Thus the governor's address demonstrates that the people of Hong Kong were uncomfortable with the authoritarian nature of the PRC government and saw it as "the other" rather than the British colonial administration.

The Tiananmen Square Incident in June of 1989 seriously derailed any progress on drafting the Basic Law and set back Sino-Anglo relations. This was partially a result of the international fallout after the violent suppression of demonstrators in Beijing, but also a result of Hong Kong protests against

⁴⁷ *The Sino-British Joint Declaration on the Question of Hong Kong*, "Annex I, Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Hong Kong," Section XIII.

⁴⁸ Sir David Wilson, "A Vision of the Future: Annual Address to the Legislative Council" in *Hong Kong Annual Review, 1990* (Hong Kong: Government Printer, 1990), 4.

Beijing. In Governor Wilson's recollections he says that:

We had a million people demonstrating peacefully on the streets, wall to wall coverage of events in Peking on the television channel. People were just desperate. Hong Kong people were saying this is what is going to happen to Hong Kong. I simply didn't believe that. Nevertheless, most people worried about it.⁴⁹

The mass protests reflects the development of the "other" being the PRC. Wilson demonstrates the anxiety and outrage of the people of Hong Kong. The Tiananmen Incident confirmed for Hong Kong that the PRC was just as brutal and violent as it had been in 1967.

The protests can also be viewed as an expression of politics by other means as Hong Kong did not have representative government. Contrary to the common belief of Hong Kong as apolitical, the protests in the streets demonstrated that the people of Hong Kong felt that protesting was a freedom of expression. In the aftermath of Tiananmen millions poured out onto the streets to express their outrage against Beijing, often times violating local laws. The Far Eastern Economic Review writes that "the numerous rallies and marches which have taken place every day in Hongkong since martial law was imposed on Peking made a mockery of the territory's Public Order Ordinance, though the government had little choice but to allow the hundreds of thousands of people who took to the streets to vent their frustrations."⁵⁰ Further regulations were violated through the schools, where students from all levels organized their own marches or rallies in support of the demonstrators.⁵¹ The fact that

millions of Hong Kong people were willing to break the law to protest shows they believed that they had the right to participate in politics. Large scale demonstrations were the way Hong Kong chose to participate politically as there was not representative government. It also demonstrates that the ideals of freedom of expression and association have permeated Hong Kong society since the 1960s. The 1967 annual review had said that "It is not an offence to be a communist (or to belong to any other political party) nor to practice the doctrines and beliefs of communism, although it is an offence to translate these beliefs into action that conflicts with the law."⁵² These ideals manifested themselves in the form of the mass demonstrations on the streets of Hong Kong in the summer of 1989. The British also realized that this movement had large scale public support and thus made no attempt to suppress the demonstrations. This event can be seen as a foil to the 1967 riots, which were suppressed very harshly by the British because they believed the riots did not have the public's support. Thus the movement was an affirmation that the people of Hong Kong could protest without the fear of violent repercussions as they saw in Beijing, which was a very real future for them.

Anxiety over the post-handover government were also a point of contention in the months following the protests. A key issue that the people of Hong Kong were worried about were the issues of states of emergency and defining treason and counter-revolutionary activities. Liberal leader Martin Lee Chu-ming, a member of the Basic Law Drafting Committee, argued that only the Hong Kong chief executive could have the power to declare a state of emergency.⁵³ This was a response to the anxiety over Hong Kong's impending return to China, and the fear that the

⁴⁹ David C. Wilson, interviewed by Malcom McBain, *British Diplomatic Oral History Programme* (September 19, 2003), 47.

⁵⁰ Emily Lau, "Voice of the People: Mass demonstrations force climbdown of conservatives," *Far Eastern Economic Review*, June 8, 1989, Regional Affairs, China 3.

⁵¹ *Ibid.*

⁵² *Hong Kong Annual Review 1967*, 19.

⁵³ "Lee Returns to Basic Law Drafting Table," *South China Morning Post*, September 10, 1989.

same brutal crackdown in Beijing would occur in Hong Kong. Lee also accused the PRC of attempting to blackmail Hong Kong after a Chinese official said the crisis of confidence in Hong Kong was a self-inflicted one. Lee argues that “the greatest blow of all is the way they [PRC] handle their own people. The most terrible thing was the crackdown and the way it was conducted. The freeze-framing of news items, and the televising of students to the whole nation, saying ‘get these men and women.’ That is so frightening to the people of Hong Kong.”⁵⁴

Here Lee demonstrates the sense of “otherness” that Hong Kong people had felt towards the PRC since the 1967 riots. The Tiananmen Incident simply exacerbate this issue and pushed Hong Kong further from China. Lee outlines that for Hong Kong, freedom of association and the press were valued ideals, which is why there was a crisis of confidence.

The Tiananmen Incident also accelerated demands for democratic reforms before 1997. Even the conservative elements of Hong Kong (chiefly businessmen) lent their support for the demonstrations and representative government.⁵⁵ The united goals of both liberals and conservatives for democratic government in Hong Kong illustrates how the ideals of democracy and freedom had become integral to Hong Kong identity. Even British officials recognized this reality. Senior Executive Councillor Lydia Dunn said that “...we can no longer say people here are not interested in politics or are politically immature. We ought to give the public a clear goal ahead and to let them know they can take part in politics to elect their legislators.”⁵⁶ This episode thus illustrates that Hong Kong identity was partially based on the belief that

they had the right to protest if they believed that the government needed to act.

On the end of the political spectrum, left leaning papers also rejected the Party line following the Tiananmen Incident. One of the most significant leftist papers, *Wen Wei Po*, saw a mass exodus of its staff following attempts by the CCP to have them toe the Party line. The director, Lee Tse-chung, was under a lot of pressure of Xinhua News to toe the Party line and was ultimately fired. A senior executive said that there was growing verbal harassment and attempts to “brainwash” the staff into accepting the official version of June 4. Thirty senior managerial and editorial staff tendered their resignation to protest the director’s firing.⁵⁷ *Wen Wei Po* had been under suspicion of supporting the leftist riots of 1967, but by 1989 it can be seen that it had also adopted a Hong Kong identity, one that could not be controlled by the CCP.

The re-imagination of the British Empire was not lost in the final stages of the British administration in Hong Kong. The British had always ruled Hong Kong with what they viewed as a benevolent autocracy in the form of the Governor, who had real political authority and the ability to pass legislation with the advice of an advising committee, the Legislative Council. There was no attempt at representative government until the final decade of British rule in Hong Kong after the signing of the Sino-Anglo Joint Declaration in 1984, which settled the issue of Hong Kong’s repatriation to China on July 1, 1997. The last governor Chris Patten announced his intention of greatly expanding the Legislative Council’s elected positions in the 1995 elections, which elicited a harsh response from Beijing.⁵⁸ Michael Yahuda argues that Britain’s Hong Kong policies were shaped by a sense of moral

⁵⁴ Ibid.

⁵⁵ Lau, *Far Eastern Economic Review*.

⁵⁶ Ibid.

⁵⁷ “Mass resignations in the offing at left wing paper,” *South China Morning Post*, July 19, 1989.

⁵⁸ Michael Yahuda, *Hong Kong: China’s Challenge* (London and New York: Routledge, 1996), 68.

responsibility for the territory's welfare and a sense of guilt. He writes that:

As Britain's last major colony [Hong Kong], its people are perhaps better qualified by education and by achievement to govern themselves than probably any other colony granted independence since the Second World War. Yet they are to be handed to the authority of a dictatorial government that in the 1950s and 1960s was responsible by its own admissions for the callous deaths of millions of its citizens. The hopes that it had undergone a fundamental change in the 1980s were dashed by the vivid scenes on television of the Chinese army killing demonstrators on the streets of Beijing on June 4 1989. The sense of guilt by British ministers and officials has been deepened because of the denial by Parliament to at least 3.5 million British passport holders in Hong Kong of the right to reside in Britain. Consequently, British policy has been designed to leave the people of Hong Kong with as best a chance to exercise autonomy so as to preserve their way of life after the reversion to Chinese sovereignty.⁵⁹

This sense of responsibility for Hong Kong demonstrates the new construction of an empire's purpose in the British imagination. British policy in the last years of their colonial rule demonstrate this sense of paternalistic responsibility of bettering Hong Kong and to leave a legacy of freedom and democracy. Finally the guilt of British ministers described above is another legacy of the Empire as Britain experienced an influx of immigrants from all over their former colonies in the 1950s-1960s, which ironically heightened racial tensions which were marginal in the mother country during the Empire's height.⁶⁰

The years leading up to the handover stirred up an interest in academic circles over the fate of Hong Kong. Cindy Yik-yi Chu proposes that three schools of thought

developed in the pre-1997 atmosphere on this topic.⁶¹ Firstly, there is the 'accusation' theory which blames both Britain and China for betraying Hong Kong and that any negotiation would ultimately fail. Such sentiments can be seen in Robert Cottrell's *The End of Hong Kong* (1993) in which he writes that "...the British government found itself signing away to the People's Republic of China 6 million people...having failed in the previous century and a half to endow them with a broadly based representative government..."⁶² Cottrell's statement here embodies the belief that Britain had not done enough in its capacity as colonial benefactors to provide democracy in the Colony.

The second school of thought is the 'historical tragedy' thesis which argues that any attempt by Britain for democratic reform was futile because of the historical realities of colonialism and imperialism.⁶³ This view is articulated by Steve Tsang in which he argues that Hong Kong would only be able to keep its autonomy post 1997 if it enhanced the PRC. Any negative influence towards the PRC would result in harsh response against Hong Kong.⁶⁴ In this theory, all the blame lies with the PRC and its nationalistic agenda of reclaiming Hong Kong. It argues that these issues made any British attempt at creating democracy futile.

The third school of thought is 'Chinese Realism', which focuses on how Hong Kong was vital for China's reforms. Chu argues from this point of view, and believes that China's cooperation with Hong Kong was a pragmatic venture. Her study argues that the accusation and historical tragedy theses were a reaction

⁵⁹ Ibid,73.

⁶⁰ Brown, *Oxford History of the British Empire*, 708.

⁶¹ Cindy Yik-yi Chu, *Chinese Communists and Hong Kong Capitalists: 1937-1997* (New York: Palgrave MacMillan, 2010), 5-9.

⁶² Robert Cottrell, *The End of Hong Kong: The Secret Diplomacy of Imperial Retreat* (London: John Murray, 1993), 177.

⁶³ Chu, *Chinese Communists*, 7.

⁶⁴ Steve Tsang, *Hong Kong: An Appointment with China* (London and New York: I.B. Tauris, 1997), 135.

to the anxiety in pre-handover Hong Kong from scholars who had no faith in Hong Kong's future. Chu argues that the CCP had a longer presence in Hong Kong than previously believed and that "...the implementation of the "one country, two systems" policy can be better understood through the study of *Chinese Communist activities in Hong Kong over the six decades before the 1997 handover*."⁶⁵ This view is significant because it argues that the CCP had vested interest in Hong Kong even before they were in power. Chu's central argument is that the CCP worked with the business elite of Hong Kong throughout the period studied.⁶⁶ The salient point here is that it would mean the CCP ignored the voices of the general population of Hong Kong, which included those who protested against Beijing in 1989.

The first decade after the 1997 handover had passed by relatively peacefully, yet Hong Kong identity has proven to be a source of friction for Beijing. The protests in 2014 for full democratic elections in 2017 following Beijing's recalcitrant stance towards this issue demonstrates that there are many unresolved issues in Hong Kong. Hong Kong identity has rested in part on the 'myth' that the British left democratic ideals in Hong Kong. In a sense, these ideals are imagined, just as the idea of a nation is an imagined community. The period discussed in this study argues that Hong Kong saw itself as different from the Mainland, but does not go as far as to say there were nationalistic feelings in this new identity. The same cannot be said for today's political climate where there are signs that a new nationalism is being created. The recent forming of the Hong Kong National Party in March 2016 reflects a small, but vocal part of Hong Kong society that feels their differences with the Mainland, especially on political issues, are irreconcilable. The Hong Kong

⁶⁵ Chu, *Chinese Communists*, 10.

⁶⁶ *Ibid.*

National Party's call for independence has raised concerns over the freedom of speech and its limits. Beijing has argued that the party's call for independence exceeds the limits for free speech, while scholars in Hong Kong universities have argued against this idea and have said that so long as the party's actions remain peaceful they are protected by freedom of speech laws.⁶⁷ This debate can be traced back to Hong Kong's sense of identity being built on being different from the Mainland, which is still a controversial problem for the PRC.

The imagination of British ideals is also an integral part of Hong Kong identity. Hong Kong's understanding of democracy does not come from experience, but from an imagination of the best of British values. This can be seen in Dr. Cheng Ching-tai's (a member of Civic Passion) comment on the independence party. He cites the Magna Carta, saying that "when people find it no longer possible to co-exist with the privileged class, they would mull the idea of independence, or a constitution that binds the privileged."⁶⁸ The juxtaposition of a distinctly medieval, feudal document that was understood in terms of lord-vassal obligations with modern ideals of democracy and equality under the law demonstrates how Hong Kong people have imagined British values. The post-1997 years have thus exacerbated the differences between the Mainland and Hong Kong.

The creation of Hong Kong identity was a long process that was accelerated by the Cold War. The North-South divide in China had existed for centuries, with separation in culture and language, but the communist takeover in 1949 and the millions of refugees pouring into the city furthered the divide. However, it is important to note that Cold War

⁶⁷ Stuart Lau and Tony Cheung, "Calls for Hong Kong independence break the law, says legal chief of Beijing liaison office," *South China Morning Post*, April 8, 2016.

⁶⁸ *Ibid.*



binaries were not the only issues that led to the creation of a separate Hong Kong identity. The fall of the British Empire was just as important a factor as colonial officials tried to understand their new purpose in the world. The cleanup of corruption starting in the late 1960s was a British response to the demands of the local population, and was not, as the British portray it, a desire to cleanup government for altruistic reasons. The younger generation expected more from the colonial government than their parents did, and the precarious position the British found themselves in forced them to concede to this reality. Hong Kong identity did developed out of fear of the communist government in China, and the riots of 1967 and Tiananmen in 1989 proved to the Hong Kong people that the CCP had violent nature, but British paternalism also played a role in Hong Kong's understanding of itself. The protests of 1989 reflects a Hong Kong tradition of mass protests as a form of political participation for a people who are denied representative government. Yet this idea of protest being a form of political participation for a political community is still often neglected by modern scholars. Nathan and Scobell demonstrate this fact by saying that "with nothing happening in electoral politics [after Tiananmen Protest], Hong Kong citizens gradually returned to their pre-reform attitude of realistic apathy, and the democratic movement shrivelled."⁶⁹ The 2014 pro-democracy demonstrations clearly disagree with this point. The demonstrations reflect a tradition of protests against the government when the people believed it was not acting in the best interests of the people. Hong Kong thus has been developing a separate identity since the post-war period, and being different from the Mainland has been a cornerstone of it. All these events thus alienated the

Communist Party and China from Hong Kong, and resulted in the construction of them as "the other" rather than the foreign administration of the British.

⁶⁹ Andrew J. Nathan and Andrew Scobell, *China's Search for Security* (New York: Columbia University Press, 2012), 210.