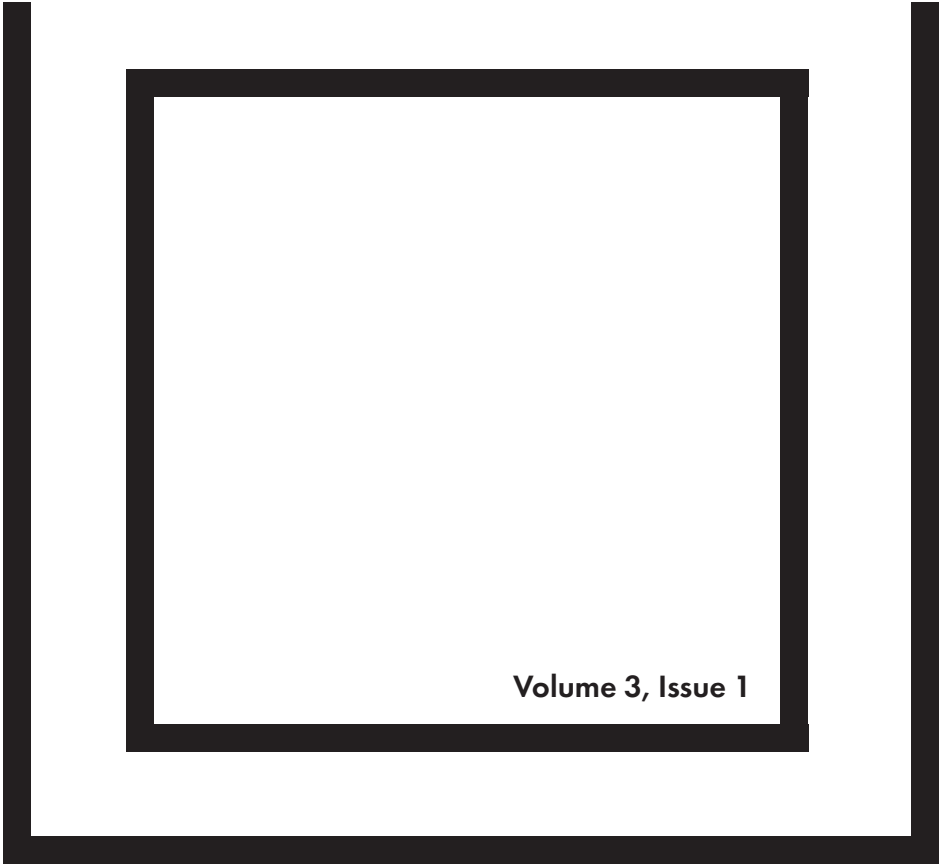


INVENTIO

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INVENTIO

The Catholic University of America's Undergraduate Research Journal

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LETTER FROM THE EDITORS

For three consecutive years, *Inventio* has served as a platform for undergraduates to share original research. This would not be possible without the tireless work of so many: the authors and their professors, the panel of faculty reviewers, the Student Editorial Board and our faculty editors, and the administration of The Catholic University of America. Throughout the process of publication, we have felt indebted to these generous individuals, wishing we could express our appreciation in a way other than overusing the phrase “thank you.” Upon reflection, however, we have come to realize that this sense of appreciation, which is a combination of awe, respect, reverence, and delight, is not only a sentiment that accompanies the completion of the various steps of publication. The essays in this volume—and, indeed the volume itself—are a testimony to the fact that appreciation is both the origin and terminus of research.

As you read the volume, you will encounter research across various fields. Although diverse in discipline and background, the contributing authors of this volume are united inasmuch as their research was born out of an attitude of appreciation for their topic. The authors, both

delighting in their topic and respecting it for what it is, began the demanding process of research. As evidenced by their impressive expositions, the authors thoroughly studied their topics without trying to manipulate them. They cite other scholars so as to examine their object from different viewpoints. Any original claims that they make are not an attempt to assert dominance over the topic but rather come as a natural consequence of deeply understanding it. All authentic research is born out of this attitude of appreciation—an attitude which allows the researcher to acknowledge himself or herself as a knower of the topic, not the creator of it.

Like all good research, the essays contained in this volume unveil the intricacies and nuances of their subjects. We encourage you, as the reader, to engage with the topics and to ask follow-up questions. These enduring questions serve an important purpose for *Inventio* not only because they enable the possibility for more research; they also introduce a sense of mystery. Quite obviously, the goal of research is *to know*. Less emphasized but equally important, another end of research, as Plato's Socrates proposes in *The Apology*, is to know that we *do not know*.¹ The existence of the unknown and—dare we say—the Unknowable is not reason to be skeptical of our abilities. Rather, it is reason to marvel in that which is yet known and to appreciate it inasmuch as it reveals the grandeur of its Author. As Josef Pieper explains in “The Philosophical Act,”

“Mystery means that a reality cannot be comprehended because its light is ever-flowing, unfathomable, and inexhaustible.”² We hope that you, like the authors, do not become discouraged at all there is to discover but rather appreciate the unknown because it provides an opportunity to do more research and to adore its Creator.

Herein lies the contribution that *Inventio* makes to The Catholic University: *Inventio* contributes to the *university* aspect of The Catholic University to the extent that the research contained in it—and indeed the volume as a whole—is both rigorous and academic. Like all research, the contributions of *Inventio* were born out of a sense of appreciation for what is—whether it be English literature, American politics, or ancient philosophy. More uniquely, though, *Inventio* contributes to the Catholic identity of the University because the attitude with which we approach research is inherently Catholic, meaning it terminates in appreciation for the unknown and its Creator. *Inventio* and, more generally, The Catholic University of America serve as a reminder that knowledge is never opposed to the Divine. Rather, it is a means by which we reach God.

Sincerely,

Danielle Schirripa
Editor-in-Chief

Claire Coleman
Managing Editor

NOTES

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The Value of Political Neutrality: Analyzing the Role of the Papacy in World War II

Theresa Abela

The relationship between the Vatican and the Axis Powers during World War II has been a topic of debate for many years. Historians have lauded Pope Pius XII as a heroic protector of people targeted by the Nazis and denounced him as a selfish diplomat who ignored the plight of innocent people for his own gain. In this paper, I analyze several contemporary papal encyclicals and other sources to provide an accurate account of the Vatican's involvement in World War II. Although Pius XI was more outspoken than Pius XII in his denunciation of Nazi and Fascist cruelty, both Popes worked tirelessly to protect Europe from the evils of totalitarianism.

Introduction

From 1942 until the Allies liberated Rome, one man saved over six thousand Allied servicemen, Jews, and other people who would have otherwise been deported or killed by the Nazis. An Irish priest who lived in the Vatican, Monsignor Hugh O'Flaherty, ran an underground resistance movement and risked his life on multiple occasions to save people from Nazi and Fascist cruelty.¹ Compellingly portrayed by Gregory Peck in the 1983 movie *The Scarlet and the Black*, O'Flaherty is a clear Catholic hero of World War II. However, the

history of the Vatican and the papacy itself during the rise and fall of the Nazi and Italian fascist regimes is not so clear. Throughout the post-war decades, different sources have both criticized and praised papal action during the war. Some laud the outspoken words of Pius XI against fascist racism and the diplomatic actions of Pius XII, while others say the latter ignored the plight of the Jews, valuing Vatican neutrality above all else.

When comparing the actions of Pius XI and Pius XII, it is clear that Pius XI was more politically outspoken, denouncing the actions of the Fascist and Nazi parties many times. This difference has resulted in much criticism of Pius XII's actions that still exists today, even though many are historically inaccurate and biased. Looking objectively at the writings of both popes reveals an unbroken thread of anti-racism and anti-totalitarian principles, while their actions both display a desire to avoid greater evil and protect both the Church and all people from the evils of the Nazi regime. Through both action and writing, Popes Pius XI and Pius XII worked tirelessly to protect the people of Europe from the evils of totalitarianism, as well as promote a just civil society.

Criticism

During the years immediately following World War II, Pius XII was acclaimed for protecting people from the Nazis. A few people denounced his silence as early as 1940, including Cardinal Tisserant, a member of the Roman Curia, who said, "I'm afraid that history may be

obliged in time to come to blame the Holy See for a policy accommodated to its own advantage and little more. And that is extremely sad – above all when one has lived under Pius XI.”² Although some papal and government officials disagreed with the Pope’s policies during World War II, much of his current criticism stems from *The Deputy*, a 1963 play written by a German publisher’s assistant, Rolf Hochhuth.³ The play portrays Pius XII as a cold man who completely ignores the plight of the Jews and other people being persecuted by the Nazis. It tells the story of a young Jesuit who decides to go to Rome and convince the Pope to do something about the situation. He switches clothes with a Jewish man who has been hiding in his house, enabling the man to escape. The Vatican continues to ignore the pleas of the Jews who are being deported right outside of their walls, and the Jesuit ends up being shot when he strikes a Nazi doctor.⁴ Justus Lawler says that “much German acclaim for the work probably derives from the national need for a catharsis of the Nazi past,” and although the play is now widely considered to be inaccurate, it inspired a new criticism of the papacy’s actions during World War II that still exists today.⁵

Hitler’s Pope: The Secret History of Pius XII, a 1999 book by John Cornwell, further criticizes Pius XII in an attempt to prevent his canonization. Cornwell attributes his political conciliation and failure to publicly criticize the Nazis to anti-Semitism and a desire to increase personal and papal power throughout Europe. However,

this book is factually inaccurate and ignores several important sources. For example, the author states that Pius XII approved of National Socialism when in reality he criticized it multiple times. The book ignores the complex relationship between the Vatican, Germany, and Italy, reducing most of the Pope's decisions to personal anti-Semitism. In a review, Joseph Biesinger says that "this 'secret history' is extremely agenda-driven, often reflects an uncritical use of sources, and makes gratuitous conjectures."⁶ Nevertheless, because it is interesting and well written, it increased criticism of the Pope.

More recently, the Jewish community in Rome criticized the Church's decision to further the cause of Pius XII's canonization. During Pope Benedict XVI's visit to the main Jewish temple in Rome in 2010, Riccardo Pacifici, the president of the Rome Jewish Community, said, "The silence of Pius XII still hurts today as an opportunity missed."⁷ He believes that the Church could have better conveyed solidarity by speaking out publicly, even if there was no way to actually stop Nazi aggression. However, he also acknowledged that Catholics saved many people during the war, including his father.⁸ The Vatican has yet to open archives from Pius XII's papacy, an action called for by many Jewish groups. Officials say that they will eventually be opened, but not for several years, on account of the large amount of information still in need of organization.⁹ Overall, it seems that most critiques of papal action during World

War II are either based on inaccurate information or personal opinion. Once the Vatican opens its archives and scholars can study documents from the era more closely, a definitive explanation of Pius XII's silence may be reached. But until that time, exploring the history and writings of the papacy before and during World War II is a helpful way to understand the context in which Pius XII made his decisions.

Pius XI

A conservative but strong-spirited man, Pope Pius XI spent his papacy working to promote peace in the church and throughout all European nations.¹⁰ Formerly known as Achille Ratti, he was born in Milan, educated at the Gregorian University in Rome, and became a priest at the age of 22. He was very bright and served in a variety of positions for the Church, including as a teacher at a seminary in Milan, as Prefect of the Vatican Library, as Apostolic Visitor to Poland, and as Archbishop of Milan.¹¹ After Benedict XV died in 1922, the papal conclave chose Ratti as their next pope. The cardinals were conflicted over whether to continue in the path of Benedict XV, who worked to solidify the Church's place in the international arena, or Pius X, who focused more on internal affairs.¹² They saw Ratti as a compromise, and although choosing the name Pius XI placed him in the tradition of the Pius X, the European climate soon forced him to look outwards.¹³

In October of the same year, Benito Mussolini and his militia marched on Rome, forcing the king to appoint

him as Prime Minister. Soon after, he used his power to establish a Fascist dictatorship.¹⁴ Before the rise of fascism, most of Italy was divided into two parties: the Socialist Party and the Christian Democratic Party. Both of these groups began to encroach on private property, and had strongly opposed Italy's participation in World War I. After the war, the Fascist Party "represented, to a considerable degree, a middle-class backlash against the redistributive and pacifist implications of the entry of the Italian masses into politics."¹⁵ From 1920-22, the party began to terrorize the Socialists and Democratic Christians throughout Italy. When the Italian government refused to intervene, the Fascists became more powerful, which ultimately culminated in Mussolini's complete takeover of government power in 1922.¹⁶

Though when taken to its logical end, fascism is incompatible with Christianity because it requires total devotion to the state, Pius XI tolerated it because it was not as serious as the German version of totalitarianism. The regime was willing to work with the Church and brought some benefits to the Italian people, as well as being their only real option.¹⁷ However, he opposed its attempts to control the Church, and, especially towards the end of his pontificate, he worked intensely to combat Nazi Germany and its agenda of racism and cruelty.¹⁸ Mussolini began his rule by making several concessions to the Vatican, including putting crucifixes in schools and adding religious education to public elementary

schools.¹⁹ Cordial relations between church and state enabled negotiations about the sixty-year-old Roman Question, and in 1929, Mussolini signed the Lateran Treaty. This document gave the papacy Vatican City as neutral territory and established it as a sovereign state, regulated church-state relations, and provided financial restitution for the confiscation of papal territory.²⁰ In terms of church-state relations, the Holy See agreed to separate itself from state conflicts unless they appealed to him. In exchange, the document gave Catholicism a defined place in the Italian state, and attempted to reconcile public policy with church teaching.²¹

Even though the treaty seemed satisfactory, it soon became clear that fascism and Catholicism are difficult to reconcile. The Fascist Party's desire to strengthen totalitarian control caused them to restrict the activities of Catholic youth organizations such as Catholic Action.²² In response to this, in 1931, Pius XI wrote his encyclical *Non abbiamo bisogno*. In it, he says that he seriously doubts "whether the former benevolences and favors were indeed actuated by a sincere love and zeal for religion, or whether they were not rather due to pure calculation and to an ultimate goal of domination."²³ Although he attempted to keep peace with the government, Pius XI clearly saw problems with the negotiations and did not remain quiet about them. He further says, "A conception of the State which makes the rising generations belong to it entirely, without any exception, from the tenderest years up to adult life,

cannot be reconciled by a Catholic either with Catholic doctrine or with the natural rights of the family.”²⁴ Pius XI strongly opposed the totalitarian attempts of the fascist regime to control education and raise children in complete devotion to the state. His words forced Mussolini to halt his persecution of Catholic Action out of fear of negative publicity and allow it to continue operating, although in a somewhat limited way.²⁵

Pius XI also firmly opposed every racist policy implemented by both Hitler and Mussolini. In 1937, he issued the encyclical *Mit Brennender Sorge*, addressed to the German people, which spoke strongly against Hitler’s regime. He states:

Whoever exalts race, or the people, or the State, or a particular form of State, or the depositories of power, or any other fundamental value of the human community - however necessary and honorable be their function in worldly things - whoever raises these notions above their standard value and divinizes them to an idolatrous level, distorts and perverts an order of the world planned and created by God; he is far from the true faith in God and from the concept of life which that faith upholds.²⁶

The encyclical, which was read in Catholic churches all over Germany, argues vigorously against the evils of racism and total state devotion. The Nazis understood this as a papal “call to battle against the Reich.”²⁷ In 1938, Mussolini began passing racist laws similar to those in effect in Germany. Pius XI continued to

denounce these until his death, and also worked to provide visas to Jewish refugees affected by these policies.²⁸ Although Pius XI wished to maintain peace and attempted to negotiate with the Fascist government in Italy, he was not afraid to denounce their racist and anti-Catholic policies when necessary, as well as work to help the people negatively affected by them.

Pius XII

Unlike his predecessor, Pope Pius XII saw conciliation and the avoidance of aggressive language as the best way to protect people from the Nazis' evil policies. Born in 1879, Eugenio Pacelli wished to be a priest from a young age and entered the seminary at the age of 18. His intellectual gifts were quickly noticed after his ordination, and he began to serve the papacy in many different capacities. During World War I, he was the papal nuncio to Prussia, where he impressed many people, including the Kaiser. He also spent several years as nuncio in Germany, before becoming the Cardinal Secretary of State in 1930. An experienced diplomat, he was elected pope on March 2, 1939.²⁹

Pius XII's policies were clearly more conciliatory than Pius XI's. He faced hugely important decisions that he dealt with using his years of diplomatic experience. Peter Kent, Professor Emeritus of history at the University of New Brunswick, says that he "consciously and deliberately rejected a policy of public protest against Nazi atrocities from the very beginning of his pontificate."³⁰ Comparing this with Pius XI's outspoken

messages might cause one to think he was too passive, or even that he harbored pro-Nazi sentiments. But according to Frank Coppa, the cardinals in the conclave “were aware and appreciative of Pacelli’s persistent efforts to mitigate the confrontational course of the past pope which they feared provoked the dictatorial regimes and endangered the Church and the faithful in Fascist Italy and Nazi Germany.”³¹ Similarly, Roger Charles says that the Pope knew from the appeals of church officials in Nazi occupied countries that protests only led to crueler reprisals against Catholics by the Nazis.³² Viewing Pope Pius’s actions from this perspective shows that his conciliation stemmed from a desire to avoid greater evil and to save persecuted people in the best way possible.

Pius XII’s first encyclical, *Summi pontificatus: On the unity of human society*, sets the stage for the themes of his papacy by outlining the problems with unity that had developed in the past forty years. Having worked as a diplomat through the rise of both Soviet communism and Italian fascism, he was keenly aware of the inequality and disunity that existed in European society. In his encyclical, he explains that a rejection of universal moral values and exclusion of Christ from public life have caused society to become corrupt.³³ These conflicts are worse than any the world has ever seen, for he says:

It is true that even when Europe had a cohesion of brotherhood through identical ideals gathered

from Christian preaching, she was not free from divisions, convulsions and wars which laid her waste; but perhaps they never felt the intense pessimism of today as to the possibility of settling them, for they had then an effective moral sense of the just and of the unjust, of the lawful and of the unlawful, which, by restraining outbreaks of passion, left the way open to an honorable settlement. In Our days, on the contrary, dissensions come not only from the surge of rebellious passion, but also from a deep spiritual crisis which has overthrown the sound principles of private and public morality.³⁴

Pope Pius XII realized the underlying philosophical and theological disputes causing World War II and knew how dangerous it was to confront a regime with an ideology that rejected any kind of morality or shared Christian values. Because of this, he chose to maintain a public policy of impartiality, refusing to openly side with any temporal power, while always promoting and suggesting a return to Christian values of peace and morality.³⁵ However, these Christian values include an outright condemnation of racism, which Pius confirms in his encyclical, quoting St. Paul's statement that "there is neither Gentile nor Jew, circumcision nor uncircumcision, barbarian nor Scythian, bond nor free. But Christ is all and in all."³⁶

Throughout his pontificate, Pius XII often used radio messages to communicate to the public. In 1940, he outlined his suggestions for creating a lasting and peaceful new order in society. His conditions

included rejecting hatred and propaganda, abandoning mistrust and utilitarianism, restoring morality in international relations, reducing economic inequality, and encouraging solidarity directed by divine law.³⁷ He promoted these values without pointed rhetoric, or the outspoken condemnations of his predecessor, Pius XI. Neither did he allow the Church to become a political instrument for either power. This allowed the Vatican to remain in a position of relative freedom while surrounded by Mussolini's pro-Nazi government.

Although Pius XII remained publicly impartial and avoided provocative condemnations and rhetoric, privately he was extremely active and worked to save people of all religions and nationalities who were being persecuted by the Nazi and Fascist regimes. In fact, it is judged that out of the one million Jews who survived the Holocaust, 800,000 can attribute their survival to the Church.³⁸ Pinchas Lapide, the former Israeli consul in Milan, authored a well-documented study of the Church's activity during World War II that confirms this fact. According to his research, 25% of Slovakian Jews who survived owed their lives to the church, as well as 25,000 Hungarians, 250,000 Romanians, and many in France, Greece, and Bulgaria.³⁹ When Hitler ordered the deportation of Italian Jews in 1943, the Pope instructed monasteries and convents to provide refuge for them, which saved around five thousand of the eight thousand Jews living in Rome at the time.⁴⁰ The Catholic Resistance movement in Italy overall was

very strong, and many laypeople and clergy provided food, information, and shelter to both Jews and escaped prisoners of war. The Pope even used the Vatican as a hiding place for persecuted people.⁴¹ It is the so-called “silence” of Pius XII that allowed him to organize this mass effort and successfully protect so many people. Pius XI often spoke out critically and condemned the Nazis, but overall this did nothing, and the regime continued to grow throughout his pontificate. Pius XII observed this, and implemented a new policy of conciliation. During his papacy, by remaining politically impartial, the Church kept herself free to act in a way that truly helped people.

Conclusion

World War II was a time of radical conflict, which was in many ways the result of the development of new political philosophies based on utilitarianism and relativism, instead of the Christianity-based governments that had previously existed in Europe. Confronting these regimes was a new problem for the Catholic Church that had no clear solution. Pius XI and Pius XII both worked in ways they thought best to promote Christian values of peace and equality throughout the war, while at the same time protecting the Church from the Nazis and enabling it to remain neutral. Protecting the political neutrality of the Church allowed Pius XII and other church members to protect thousands of Jews, Catholics, and other people who would have otherwise been killed by the governments of

Hitler and Mussolini. Today, critics who described Pius XII as a cruel anti-Semite, or motivated by personal or Church gain have been widely discredited. Some still hold that he should have denounced Nazi cruelty in a more outspoken way, but considering the dangerous position of the Vatican and of Catholics around the world at that time makes his decision to remain quiet very understandable. Combining this viewpoint with the evidence of his ceaseless personal work to save thousands of people persecuted by the Nazis results in a largely positive picture of Pius XII's actions during World War II.

Today, although we are no longer engaged in a world war, the Church still struggles to define her political identity in a world where major governments are no longer Christian, and are in many ways anti-Christian. Because these political systems often promote ideas and causes that are extremely anti-Catholic, the Church cannot identify wholly with any specific government. In an article for *Crisis Magazine*, James Kalb says, “[The Church’s] action in support of that understanding should normally be direct rather than mediated by the political system.”⁴² The Church should continue to oppose evils and lessen human suffering, but the political actions most conducive to those ends are usually ones that allow Her to continue to act and Her members to worship without constraint.⁴³ However, although maintaining autonomy is essential, cooperating with temporal governments is often beneficial to the

Church as well. Pius XI and Pius XII were among the first popes who faced such modern political problems. Pius XI recognized the benefits of cooperating with a large government. During his pontificate, the Catholic Church retook the Vatican City as territory after it was stolen during the Italian reunification. This territory allows the Church to remain freer than if it was part of another nation. However, Pius XI never allowed a political regime to insert its ideology into the Church, or force it to do anything contrary to the faith. Similarly, Pius XII worked to keep the Church separate from specific governments so that church officials and members could remain free to act according to their conscience. In an increasingly hostile world, the Church must work, as Pius XI and Pius XII did, to not only maintain relationships with other governments, but also to keep Herself free from political regimes so that She can continue to promote Christian values and serve God's people.

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International Insult:

An Examination of a Newspaper Libel Case in the Context of Eighteenth Century Anglo- Russian Relations and English Libel Law

Ethan Rudman

“International Insult” is primarily a case study that examines the state trial of three London newspaper executives charged with libel in November of 1798 and how that case had larger implications regarding British libel law, diplomacy, and governance. This paper points out anomalous elements of the executives’ trial to argue that the British government abusively applied libel law to censor this newspaper on account of an article that declared the Russian emperor a tyrant. This paper demonstrates that numerous special interests including Anglo-Russian relations, newspaper politics, and the personal inclinations of the presiding judge resulted in the conviction of these men. Research for this paper was primarily conducted with the use of collections of state trials, British laws, newspaper articles, and various articles and monographs on British libel law and diplomacy in the late eighteenth century. This paper provides conclusive evidence that the British state, on at least this one occasion, abused (or even broke) libel law to suppress the opinions of press institutions when those opinions were considered undesirable or harmful to British interests.

According to Hannah Barker in her book *Newspapers, Politics, and English Society: 1695-1855*, a third of the entire population of London was reading at least three newspapers per week in the 1780s.¹

Newspapers exercised a tremendous amount of power over the citizenry, and as such there followed a belief that it was the duty of the press to report accurately and fairly information owed to the public. Whether this was done by one paper or another was often up for debate, and many newspapers stirred up controversy regularly. One such newspaper was the radical *Courier and Evening Gazette*, a London newspaper known for its provocative and polarizing articles. While it would frequently find itself in trouble, there was a particular article written on November 1 of 1798 that brought its proprietor, publisher, and printer before the Court of King's Bench.² The text of the article is as follows:

The Emperor of Russia is rendering himself obnoxious to his subjects by various acts of tyranny; and ridiculous in the eyes of Europe by his inconsistency. He has now passed an edict prohibiting the exportation of timber, deals, &c. In consequence of this ill-timed law, upwards of 100 sail of vessels are likely to return to this kingdom without freight.³

On March 4, 1799, the *Courier* executives were brought to trial before a special jury, overseen by the Chief Justice Lord Kenyon, as they were accused of libel against the Emperor of Russia. This case is significant because it brings together many different elements of eighteenth-century Britain: freedom of the press, English law (particularly libel law), Anglo-Russian relations, the status of newspapers in England, and

the extent to which the justice system served the other needs of the state. This paper will argue that it was not an impartial judgment under English law that resulted in the convictions of these men, but rather the influence of numerous external special interests including Anglo-Russian relations, newspaper politics, and the personal inclinations of Lord Kenyon. As such, this case has extraordinary significance given the political state of Europe in the late eighteenth century and the shifting politics of Britain itself. Amidst the European turmoil caused by Revolutionary France, this case brings to the fore some of the most hotly debated topics of that Revolution, particularly the rights of private institutions before the law.

The historiography of libel law in eighteenth-century Britain being used to suppress dissident opinions is well-developed, but relatively limited when it comes to how the application of libel law related to diplomacy or other policy-specific ends of the British government. Thus this paper draws on prior work, but does not situate itself within an ongoing discussion, as very little has been said to relate British libel law research to diplomatic agendas. Based upon the primary sources available and the secondary literature published, it does not seem that any other libel cases from the period had the same level of international scope or drew such a rapid and harsh reaction from the British judiciary as the *Courier* case.

As regards primary sources, those consulted in

this study can be placed in three categories: judicial documents, newspaper articles, and legislative documents. The first of these, and the one which has brought about this discussion, is a record of the state trial of John Vint, George Ross, and John Parry (printer, publisher, and proprietor, respectively). It was published in a collection of state trials, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors*, compiled by T. B. Howell in 1820.⁴ It is important to note, however, that this collection only contains those state trial records that the author deemed worthy of inclusion, and in no way represents the total of all the numerous state trials held in the period that the collection covers. Additionally, this collection is not an official production of the English government, but rather a private recording of the trial proceedings for publication. Nevertheless, it is considered an authoritative and reliable source due to both a general modern consensus as well as the fact that some text of the recorded trial is repeated word-for-word in certain other sources.⁵ The other referenced judicial documents are also state trials from the same collection that were brought to the King's Bench on accusations of libel.

The newspaper articles referenced come from the *Courier and Evening Gazette* as well as the *Times* of London. The most important of these is of course the article that brought the three *Courier* executives to court. The other newspaper article is a Law Report

written for the *Times* about the trial. It provides a brief account of proceedings, including summaries of both the prosecution's and defense's arguments. Notably, the *Times* account also takes note of Lord Kenyon's strong suggestion to the jury that the *Courier* executives be convicted, and it is in this account that the Law Report matches *State Trials* exactly.⁶ The last of the primary sources is a record of debates in the House of Commons, collected in a periodical called *The Parliamentary Register*. Like *State Trials*, this is not an official publication from the British government, but is nevertheless regarded as an accurate presentation of parliamentary proceedings. Such was the importance of the *Courier* case that a debate was opened in the House of Commons to discuss it, as well as its ramifications both with regard to freedom of the press and British relations with Russia. The record indicates which Members of Parliament were speaking and whom they were addressing, with the date marked at the beginning of all discussions.

It is appropriate here to provide some background for the state of English libel law in 1798. The King's Bench was, according to the National Archives of the United Kingdom, "the highest court of common law in England and Wales, with jurisdiction over both civil and criminal actions. Criminal cases were handled on the 'Crown Side'... [which] dealt with mainly serious offences, although its several jurisdictions enabled it to hear an extensive range of cases from obstructing the

highway to high treason.”⁷ The court had a judge, jury, and representatives arguing for both the prosecution and the defense. For the King’s Bench, the judge was the Lord Chief Justice of England and Wales, who at that time was Lord Kenyon (Chief Justice from 1788 to 1802).⁸ The prosecutor was the Attorney General of England, and the defense counsel was Lord Erskine.

The nature of libel law in England towards the end of the eighteenth century is crucial to understanding why and how these men were convicted. The landscape of defamation laws in England was changed considerably by the Libel Act of 1792. Prior to that year, concerning libel cases, it had been the role of the judge, at his discretion, to compel or charge the jury with the duty of declaring a defendant (or defendants) guilty if according to his judgment he found it to be appropriate.⁹ However, in 1792, Charles James Fox, the Whig leader in the House of Commons, led the passing of what is now known as Fox’s Libel Act (the Libel Act of 1792). It was Fox’s intention “to reduce the power of the judiciary to determine whether an impugned publication was criminally libellous, and by the same token to increase the power of juries in criminal libel cases to reach that general conclusion.”¹⁰ This legislation stated that:

Whereas doubts have arisen whether on the trial of an indictment or information for the making or publishing any libel, where an issue or issues are joined between the King and the defendant or defendants, on the plea of Not Guilty pleaded,

it be competent to the jury impanelled to try the same to give their verdict upon the whole matter in issue: be it therefore declared and enacted . . . That, on every such trial, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information; and shall not be required or directed, by the court or judge before whom such indictment or information shall be tried, to find the defendant or defendants guilty, merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information.¹¹

Not only, then, were judges barred from directing verdicts generally, but courts were also banned from prosecuting solely on the basis of libelous material: the presence of libelous intent was now required as well. The legislation then goes on to say that libel cases should be tried as other cases are, juries should not be kept from finding special verdicts, and defendants have the right to move in arrest of judgment in guilty verdicts returned by the court.¹²

As regards the *Courier* case, this act is of supreme importance because it fundamentally changed the manner in which courts, including the court of King's Bench, were required to handle libel cases. No longer could judges command juries to declare a verdict of guilty based on production of an objectively libelous publication alone. Now, it was in the full purview of juries to consider not just the publications themselves,

but the presence of any libelous criminal intent as well.¹³ The Act comes up in the *Courier* case not because of how it was applied, but because it seems to have been ignored. At the very least, it is significantly bent through the actions and pressures of Lord Kenyon.

The *Courier and Evening Gazette* was a widely-read London newspaper and became known during the late eighteenth century for its then-radical viewpoints. According to Hannah Barker, whose works provide views of the *Courier*'s more radical leanings and supply plausibility to the argument that the British government would use tools other than direct censorship to influence the press as demanded by other state needs, "reading newspapers aloud was common amongst radical groups."¹⁴ Indeed, "in 1798 at least one branch of the United Englishmen subscribed to the *Courier*... and always began their meetings by reading the paper aloud."¹⁵ The United Englishmen was a revolutionary group intent on the formation of an English republic, buoyed by the recent movements in France and America.¹⁶ Readership of the newspaper was widespread because individual copies would change hands several times. A few copies might start out in a coffee house and then make their way around the city depending on where they were taken by patrons of different London establishments.¹⁷ In fact, a single copy of the *Courier* might "have been passed around fifteen pairs of hands" in its lifetime.¹⁸

By the mid-1790s, many radical English

newspapers had tempered their previous support for Revolutionary France after the Reign of Terror. However, well into the end of the eighteenth century, the *Courier* was still supportive. In fact, it declared the post-Terror French Republic to be far too moderate.¹⁹ Many in London, especially in the government, believed the *Courier's* opinions to be outright seditious, with whispers of treason in the air as well. Indeed, the *Courier* would get in trouble with the law more than once, and it was mentioned in several other state trials involving libel and sedition.²⁰ It believed Great Britain to be responsible for the outbreak of hostilities leading to the War of the First Coalition from 1792-97.²¹ Given the *Courier's* anti-monarchy and pro-republican leanings, the view of wartime Britain was that its publications were directly contrary to the national interests. For Britain, however, the most pressing national security issue it faced in the late eighteenth century “was France’s aim of territorial expansion, which only the *Courier* defended.”²² It was not until the rise of Napoleon that the *Courier* would finally shift its position on France.

At the time of the article examined here, however, the *Courier* was still a vehement supporter of the foreign policy aims of 1790s France. During this time period, there were three men responsible for the management of the *Courier*: John Vint, the printer; George Ross, the publisher; and John Parry, the proprietor. As such, the views of the *Courier* publications most certainly reflect their opinions. It was these three men who were

brought before the court of King's Bench in March of 1799 for "a libel (published in the Courier newspaper) on his Imperial Majesty Paul the First, Emperor of all the Russias."²³

In the years 1798 and 1799, Great Britain and Russia were allies against France in the War of the Second Coalition.²⁴ While Britain in no way endorsed the foreign policy aims of the Russian Empire as a whole, it had no other choice but to make its stand against the aggression of the French Republic as a member of the larger coalition. The British knew the value of Russian support in protecting Northern and Central Europe from the French. As such, they were willing to set aside their complaints about Russian policy in the interest of addressing the French threat. However, according to William Butler, "on certain issues, notably sea power, there were consequential differences in the basic positions of the two powers," and this contributed to the overall tension in their relationship.²⁵ Russia was highly aware of the opportunity available to it in the War of the Second Coalition. If there was ever an advantageous time to challenge the first-rate European powers and establish itself as a contender, this was it.²⁶ As a result, though in public they gave full-throated support, the British ruling class grew wary of Russia's geopolitical maneuverings.

This made the military alliance between the two powers all the more fragile, resulting in a diplomatic need to tread lightly when it came to Russian matters.

According to David M. Griffiths, this was exacerbated even more by the recent trading history of the nations, when “in the course of Anglo-Russian negotiations, obstacle after obstacle had been erected by the British...[because] ‘the commercial interests of Great Britain forced the King, whose first principle was the happiness of his subjects, to refuse a condition capable of destroying [their] entire trade in Turkey.’”²⁷ In fact, it was only the widespread Russian admiration for Britain as a state that kept alive any hopes for diplomatic friendship. Eighteenth-century Russian culture was pervaded by a desire to be as British as possible with regard to statecraft, and this led to an accommodation of British foreign policy designs, with the goal being British mentorship of the emerging Russian nation.²⁸ The general opinion of the Russian rulers was that the British Empire represented everything that emerging European powers ought to strive for, and as a result they sought a Russia which emulated the British model.²⁹ Nevertheless, there were serious concerns about British interests in Russia, as in the minds of the Russian diplomats, “All sea-going nations were susceptible to the mercantile spirit; but it was the responsibility of the ruler to contain this spirit within bounds, especially when it threatened to impinge upon matters of foreign policy.”³⁰

Despite these conflicts, at the time of the *Courier* case, the focus of Anglo-Russian diplomacy was the defense of Europe against France, and thus the article published in the *Courier* posed a serious problem. With

the alliance between these states being so fragile at the time, the newspaper, which would eventually make its way to the major European cities, and certainly to all of the Russian diplomats in London, had the ability to cause irreparable damage. At the time of the *Courier* publication, Russia and Britain were in fact already planning an invasion of the Netherlands against the French to take place in August of 1799.³¹ This was intended “to divert the pursuits and disconcert the plans of the foe in other quarters.”³² Thus, an article that would have earlier been the subject of, at worst, intense debate over freedom of the press had been elevated to a critical national security issue due to French mischief abroad. In the minds of the British, the article directly threatened the ability of the nation to pursue war with France effectively, as the Anglo-Russian invasion of Holland was considered essential to the success of the Second Coalition.³³ While there is no evidence that the Russian Empire was offended as an institution, this could perhaps be ascribed to the rapid and successful prosecution of the *Courier* by the British government.

According to the record of the case itself in Howell’s *State Trials*, Lord Kenyon himself even admits that the foreign policy needs of Britain in this instance outweighed legal concerns in such a matter, saying:

What could have induced the princes of Europe to the conduct some of them have pursued, I will not venture to investigate...but...I am bound to say that it does not absolve states from enforcing

a decent respect...to the persons of sovereigns executing the law, etc. A breach of these rules might produce discord...[because] our papers, it is well known, are not only circulated over Europe, but much farther; and the sentiments they contain are interesting and popular, so that if poison appears in them without its antidote, the effect might be fatal to ourselves; as it might be reasonably concluded, that if government winked at or slumbered over such a publication, it was disposed to adopt it.³⁴

Shortly before this, the argument had been made by the counsel for the defense, Lord Erskine, that he had never felt more confident in rejecting charges such as the ones levelled at the *Courier*.³⁵ According to him there had been in previous years all manner of utterly disgusting publications concerning the Prussian royalty that had gone unnoticed by the courts and had in fact received little attention from the British government at all.³⁶ This discrepancy, which was acknowledged to be true by both John Scott, the prosecuting Attorney General, and Lord Kenyon, can only be explained by the international circumstances in which Britain found itself in 1798 and 1799.

If one examines the prosecution's argument in its totality, one can see clearly that the perceived offense was being prosecuted not primarily because of the actual insult to the Emperor of Russia, but rather because, it was argued, to insult the Emperor of Russia was to indirectly insult the King of Great Britain, who officially

stood in a state of friendship with the Emperor.³⁷ The Attorney General says the *Courier* intended to “[create] discord between our said lord the king and his subjects and his imperial majesty and his subjects in contempt of our said lord the king and his laws to the evil example of all others in the like case offending and against the peace of our said lord the king his crown and dignity.”³⁸ This statement is essentially a direct accusation of libel against the King of Great Britain, which was a most serious offence. The Attorney General’s well-crafted formulation appears to be a clever way of getting around the fact that the Emperor of Russia, who is not a British citizen, is therefore not protected by British law. The entirety of the case against the *Courier* rested upon this workarround, and it would have provided the situation most conducive to Lord Kenyon’s directing a verdict to the jury. The legal stretching that takes place here is yet another piece of evidence suggesting the degree to which the British government felt obligated to suppress the *Courier* opinion.

Furthermore, given Britain’s opposition to France and the *Courier*’s outspoken and inflammatory support of that republic, His Majesty’s government had a vested interest in seeing the trial result in convictions. The wave of republican sentiment in England was growing, especially in the shadow of the American and French Revolutions, both of which had taken place recently. In order to ensure the political stability of Britain at the time, the government placed a premium on

opportunities to suppress publications spreading anti-monarchy sentiments. Since there was a large number of newspapers, particularly in London, given to producing such material, the best way to handle this was through the copious application of libel laws limiting the freedom of the press. Multiple radical English newspapers in the late eighteenth-century were victims of this overuse of libel law by a suspicious government, and the *Courier* ranked high among them.³⁹ This was a direct result of the growing danger of republican causes sweeping across continental Europe.

According to Philip Harling, “Between 1790 and 1832 a grand total of 73 indictments and 166 ex officio informations for seditious and blasphemous libels were filed in the court of King’s Bench...[and] it is...safe to assume that the crown lawyers were directly involved in well over 200 prosecutions for libel over this period.”⁴⁰ This is in stark contrast to the number of prosecutions from 1760-89, a comparable time period, during which prosecutions for libel are calculated at less than 70.⁴¹ This phenomenon can be attributed, at least in part, to the English government’s growing reliance on libel law to suppress undesirable opinions, especially in the widely circulated press. It is reported that the government “brought up to thirteen informations and indictments against the [*Manchester Herald*] within a matter of months.”⁴² Also telling is that the vast majority of these cases were brought to trial by the British government, and not by private individuals.

The *Courier* case is an example of a government-pursued trial, and in it played out many of the intricacies of government manipulation of libel law. As previously stated, the newspaper was no friend of the English government, and as a result the authorities would go out of their way to reduce its readership. The *Courier's* audience was so large in London that “provincial magistrates...threatened publicans with the removal of their licenses for taking papers such as the *Manchester Herald* and the *Courier*.”⁴³ Such was the level of concern that the matter was raised in the House of Commons. Lord Grenville, addressing the assembly, is reported to have said that “he had ordered *The Courier* to be prosecuted...as soon as he received His Majesty’s commands to that effect” and that “a libel calculated to endanger the permanence of an alliance between His Majesty and a foreign Potentate was of the highest order of libels, and merited the most exemplary punishment.”⁴⁴ Additionally, there was strong precedent for strong-arm tactics being used by the government against newspapers it deemed dangerous. Around the same time as the *Courier* trial, one unfortunate publisher from a different radical paper was even arrested without a warrant, resulting in the stress-related death of his pregnant wife (and their child).⁴⁵

Lord Kenyon’s role as the presiding judge in the *Courier* trial is at the center of the libel law issues in this case. It was well known at the time that Kenyon despised the Libel Act of 1792, and he made no attempt

to conceal his opinions. In fact, he voiced his opposition in the courtroom more than once.⁴⁶ He did abide by the Act when it suited him, or when, in his opinion, the interests of the English government were not in jeopardy. However, when it came to newspapers, he frequently exceeded the mandate as laid down in the Libel Act.⁴⁷ The reason for this cannot be pinned down precisely, as it does not seem that he ever gave one. Nevertheless, it can be reasonably concluded from his language in cases as well as from his biographers that he had an acute understanding of the direction of politics, and thus chose to follow the Act according to the needs of the government.⁴⁸ In fact, his entire argument for the conviction of the *Courier* executives appears to come from a similar attitude. Nowhere in the case does he make any comment about the objective qualities of the article that was published, and neither he nor the Attorney General address Lord Erskine's argument that far worse things had been said of other rulers in more prominent spaces and yet no action had been taken.⁴⁹ Rather, Lord Kenyon summarized the case by essentially reiterating what the Attorney General had already said, ending his speech with a direct violation of the Libel Act of 1792. He stated, "I am bound by my oath to declare my own opinion; and I should forget my duty, if I were not to say to you that it is a gross libel."⁵⁰ Kenyon told the jury that it would be an outrage if an offence such as this were to "[pass] unrebated by our government and in our courts of justice."⁵¹ This seems to constitute a

directive being given to the jury, something that should have been disallowed after 1792.

As such, it appears that the desired outcome of this trial had already been determined by the court, and the use of a special jury confirms this. According to F. K. Prochaska, “a serious threat to freedom of expression came from the privileges of the Attorney General. In libel cases he could require a special jury, which he justified by saying that some issues demanded the consideration of persons of a higher rank and a better education.”⁵² He goes on to say that since 48 men were considered, “The Attorney General....preferred special juries not only on grounds of class, but because the crown was allowed to delete twelve of the forty-eight names selected for duty, a number easily large enough to eliminate any possible sympathizers of the accused.”⁵³ The official reason for using a special jury was that in cases of extreme complexity, it was thought that men of higher learning with strong liberal arts and higher education background could more easily discern the truth.⁵⁴ However, after less than an hour debating a case which would have clearly stretched the limits of English libel law, not least because it was said to be an offence against a non-English citizen (which should have precluded the case from reaching trial), they returned a guilty verdict on both the charge of publishing and the charge of libelous intent.⁵⁵

If one compares the actions of the government in this case with those in other libel cases from the same

time, it becomes clear just how much Britain felt the need to convict the *Courier* executives. In the trial of John Cuthell before the same court just two weeks earlier for a seditious libel, which was technically more severe than the simple libel in the *Courier* case, the attitude of Lord Kenyon was markedly different. In this trial, he appears to have gone out of his way to stress to the jury that any decisions to be made about Cuthell's guilt were entirely up to the jurors. He gave his opinion, which was that Cuthell had produced libelous material, but then said, "After all this, you, gentlemen of the jury, are not bound to say that this book is a libel because I have said so...and you are now to determine upon it."⁵⁶ Then, in a case that took place on the same day as Cuthell's trial, regarding the seditious libel of an English clergyman, Kenyon ended his trial summation by emphasizing that it was the jury's role to make a judgment.⁵⁷ In these cases, which have little bearing, if any at all, upon the state of English foreign relations, Kenyon deferred almost completely to the authority of the juries to make their own determinations.

These discrepancies all point to something unique about the *Courier* trial in particular. The context in which the offence of these men took place is much larger than most of the other libel cases contained in these state trial collections. The international ramifications of the *Courier* article placed a major diplomatic relationship in jeopardy in a way that set it apart. This was in addition to the government's already-established opposition to

the newspaper as a dissident voice in English politics, and as a supporter of Revolutionary France throughout the Coalition Wars. The causes of internal as well as external stability are chief among the concerns of any government, and in the *Courier* case they met in an extraordinary way. While there was some debate about the status of the article as libelous, the majority of the discussion in the trial was directed at the diplomatic status of England and Russia. Even Lord Erskine's arguments for the defense revolved around the effects of the article upon the needs of England, saying, "I do not wish...to see the [libel] laws relaxed; but it would be still worse to see them *strained* for any foreign power, however deserving, in opposition to the liberal policy of our ancestors, and the freedom of the British constitution, both of which would be grossly violated by a verdict against any of the defendants."⁵⁸

It can be reasonably concluded that the trial was not intended to determine guilt with regard to an act of defamation, but was rather meant to discern the degree to which the *Courier* article would damage British interests abroad. The subject of "actions injurious to British interests" did not fall under any section of English law, and as a result the government was forced to turn to libel law in order to achieve conviction. It cannot be denied that to refer to the Emperor of Russia as "rendering himself obnoxious to his subjects by various acts of tyranny; and ridiculous in the eyes of Europe by his inconsistency" is a supreme insult, especially to an

eighteenth-century monarch.⁵⁹ However, the article does go on to produce factual information about the status of British trade with Russia, indicating, “[The Emperor] has now passed an edict prohibiting the exportation of timber, deals, &c. In consequence of this ill-timed law, upwards of 100 sail of vessels are likely to return to this kingdom without freight.”⁶⁰ Given this larger context, it seems more plausible that the article was meant to communicate discontent with the negative effects such an edict would have had on the English economy rather than simply to insult Russia’s ruler. Nevertheless, it is understandable that the British government would have been eager to avoid any danger the article posed if the *Courier* went unpunished.

All the evidence presented herein clearly indicates that this case was in many ways an abnormal convergence of many different interests and changing politics in late eighteenth-century England. The diplomatic and political needs of the state were considered by the government to override the consistent application of the law, and this case presents a clear example of this. Furthermore, it was these external factors that, at the very least, contributed to the conviction of these men. In all truth, the evidence suggests that without such influences and interests the outcome might not have been the same. From a historian’s standpoint, the *Courier* case offers a unique window into the politics of 1790s England, bringing together governmental policies, freedom of the press, the state of newspapers, and libel law. The three

men convicted in this trial went on to serve jail time and paid heavy fines for their offence, but all returned to their jobs at the *Courier* after the ordeal was over. That they did not continue to be persecuted by the government is perhaps the final piece of evidence that the government wished only to make an example of these executives.

NOTES

1. Hannah Barker, *Newspapers, Politics, and English Society: 1695-1855* (Harlow: Pearson Education Limited, 2000), 46.
2. *The Parliamentary Register; or, History of the Proceedings and Debates of the Houses of Lords and Commons, 1775-1804*, ser. 3, vol. 4-6, 8.
3. John Vint, printer, "London, Thursday November 1," *Courier and Evening Gazette* (London, England), Nov. 1, 1798.
4. T. B. Howell, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors*, vol. 24 (London: Longman, 1818), 627-42.
5. Donald Thomas, ed., *State Trials: Treason and Libel* (London: Routledge & Kegan Paul Ltd, 1972), 1-19.
6. "Law Report – Guildhall, London, March 4," *London Times*, March 4, 1799.
7. Court of King's Bench (Crown Side) cases 1675-1875, The National Archives, <http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/court-kings-bench-crown-side-1675-1875/#11.%20Background%20information> (accessed 25 Apr. 2017).
8. John Campbell, *The Lives of the Chief Justices of England from the Norman Conquest Till the Death of Lord Tenterden* (London: John Murray, 1858).
9. Thomas Green, "The Jury, Seditious Libel, and the Criminal Law," in *Juries, Libel, and Justice: The Role of English Juries in Seventeenth- and Eighteenth-Century Trials for Libel and Slander: Papers Read at a Clark Library Seminar* (Los Angeles: William Andrew Clark Memorial Library, 1984), 44-45.
10. The Libel Act (1792) 32 Geo. III, c. 60, <http://web2.uvcs.uvic.ca/courses/lawdemo/DOCS/FOXEACTION.htm>.
11. *Ibid.*
12. *Ibid.*
13. Green, "The Jury, Seditious Libel, and the Criminal Law," 45.
14. Barker, *Newspapers, Politics and English Society 1695-1855*, 55.

15. Ibid.

16. Alan Booth, "The United Englishmen and Radical Politics in the Industrial North-West of England, 1795–1803," *International Review of Social History* 31, no. 3 (1986): 278-279.

17. Barker, *Newspapers, Politics and English Society 1695-1855*, 57.

18. Ibid.

19. Ibid., 180.

20. T. B. Howell, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors*, vol. 23 (London: Longman, 1817), 82, 1208.

21. This was the first alliance of European nations against the expansion of Revolutionary France.

22. Barker, *Newspapers, Politics and English Society 1695-1855*, 190.

23. Howell, *A Complete Collection of State Trials*, 627-28.

24. William Belsham, *Memoirs of the Reign of George III from His Accession to the Peace of Amiens*, vol. 8, 6th ed. (London: Richard Philips, 1808), 166-167. After the defeat of the First Coalition, another alliance was made in an attempt to stop Napoleon again. This endeavor failed as well.

25. William E. Butler, "Anglo-Russian Diplomacy and the Law of Nations," in *Great Britain and Russia in the Eighteenth Century: Contacts and Comparisons*, ed. A. G. Cross (Newtonville: Oriental Research Partners, 1979), 296.

26. Ibid., 302.

27. David M. Griffiths, "Catherine II, George III, and the British Opposition," in *Great Britain and Russia in the Eighteenth Century: Contacts and Comparisons*, ed. A. G. Cross (Newtonville: Oriental Research Partners, 1979), 307. The "condition" referred to in this quote would have essentially given Russia the right to dominate trade with Turkey, to the detriment of Anglo-Turkish trade.

28. Anthony Cross, *Anglo-Russica: Aspects of Cultural Relations between Great Britain and Russia in the Eighteenth and Early Nineteenth Centuries* (Oxford: Berg Publishers Limited, 1993), 98.

29. Ibid.
30. Griffiths, "Catherine II, George III, and the British Opposition," 308.
31. Belsham, *Memoirs of the Reign of George III*, 352.
32. Ibid.
33. Ibid., 351.
34. Howell, *A Complete Collection of State Trials*, 640.
35. Ibid., 630.
36. Ibid., 637.
37. Ibid., 627-28.
38. Ibid., 628.
39. Barker, *Newspapers, Politics, and English Society*, 69.
40. Philip Harling, "The Law of Libel and the Limits of Repression, 1790-1832," *The Historical Journal* 44, no. 1 (2001): 108.
41. Ibid.
42. Barker, *Newspapers, Politics, and English Society*, 69.
43. Ibid., 73.
44. Great Britain, *The Parliamentary Register; or, History of the Proceedings and Debates of the Houses of Lords and Commons*, ser. 3, vol. 8 (1799), 641.
45. Harling, "The Law of Libel and the Limits of Repression, 1790-1832," 114.
46. Campbell, *The Lives of the Chief Justices*, 51.
47. Ibid., 52.
48. Ibid., 50-52.
49. Howell, *A Complete Collection of State Trials*.
50. Ibid., 642.
51. Ibid.
52. F. K. Prochaska, "English State Trials in the 1790s: A Case Study," *The Journal of British Studies* 13, no. 1 (1973): 68.
53. Ibid.

54. Green, "The Jury, Seditious Libel, and the Criminal Law,"
76. These special juries would have members of the merchant class, many of whom had studied politics and philosophy in their academic careers. Green states that special juries were used in trials that the court deemed "complex," sometimes because it was genuinely the case, and other times as an excuse to load a jury with sympathizers.

55. Howell, *A Complete Collection of State Trials*, 642.

56. *Ibid.*, 676.

57. *Ibid.*, 737.

58. *Ibid.*, 638.

59. John Vint, "London, Thursday November 1."

60. *Ibid.*

Pushing the Border Outward: **An Analysis of the Evolving EU-U.S. PNR** **Agreement**

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In the wake of the terrorist attacks on September 11, 2001, the perception of border control in the United States drastically changed. The U.S. border had been tragically breached, resulting in the largest terrorist attack in the history of the United States. As apprehensions regarding terrorism in the U.S. rose, the U.S. recognized the flow of individuals into the country as a possible threat to national security. As a result, the Customs and Border Protection (CBP), a sub-agency within the Department of Homeland Security (DHS), gained access to Personal Name Record (PNR) data from airlines carrying passengers from the European Union (EU) to the U.S. The EU-U.S. PNR agreement has been considered to be one of the most controversial mechanisms in the fight against terrorism that the U.S. and the EU negotiated after the 9/11 terrorist attacks. This essay aims to examine the controversial PNR agreement between the EU and the U.S. It argues that the EU-U.S. PNR agreement enhances U.S. border security by further externalizing the policing of the border. As a result, the physical U.S. border becomes the last line of defense, rather than the first. Furthermore, this essay proposes that, despite the conflicting values regarding security and privacy between the EU and the U.S., the U.S. effectively imposed its concept of security and its national interest of security upon the EU and its security policies by way of the PNR agreement.

Introduction

PNR data is personal information provided by passengers during the process of making reservations, booking tickets, and checking in on flights. Once the PNR data is collected and transferred, law enforcement authorities can use it to fight serious crime and terrorism. Border security's traditional function is to address unlawful entry into a country and screen for illegal substances at the physical border. However, a changing threat environment – the emerging threat of mass murder on U.S. soil instead of traditional warfare abroad – is prompting governments to address threats prior to a traveler's initial departure rather than upon arrival, resulting in the establishment of government agency enforcement and action beyond the physical border. In this way, the metaphorical border is pushed outward, while the physical border remains unmoved.

This essay presents an overview of the development of the U.S.'s concept of pushing the border outwards in regard to border security, as well as the progression to the 2012 EU-U.S. PNR Agreement. In addition, it discusses the contention between the EU and the U.S. regarding the importance of security and privacy, while also pointing out the need for the development of a transatlantic privacy and data protection framework. Finally, it analyzes the EU's own PNR proposal, and argues that by successfully pushing its own border

outwards, the U.S. has been able to infuse its national security interests into those of the EU.

Growth of Border Security in the U.S. Post 9/11

The current program implemented by the U.S. for pre-screening individuals traveling to or through the U.S. is described as an effort to improve national security by “pushing the border outwards.”¹ According to Robert C. Bonner, the former Commissioner of Customs and Border Protection, these efforts “expand our perimeter of security away from our national boundaries and towards foreign points of departure.”² Although this idea of pushing the border outwards was formally articulated post 9/11 and recommended in the *9/11 Commission Report*, there were prior instances when the U.S. government identified a threat at its origin instead of at the physical borders of the country. Also, the emergence of this border security paradigm parallels the development of the concept of homeland security in the months after 9/11. This section seeks to examine the development of the concept of pushing the border outwards as the formal model of border security, when it comes to identifying high-risk individuals.

Firstly, preceding the EU-U.S PNR agreement, President Nixon’s establishment of the Customs Air and Security Program (1970-1974) demonstrates the preexisting idea in the U.S. of screening individuals traveling to the U.S. before their arrival at the physical border.³ This program was Nixon’s response to a situation when members of the Popular Front for the

Liberation of Palestine hijacked three New York-bound airplanes from European cities and blew the airplanes up after landfall in Egypt and Jordan. Prior to the departure of those airplanes, the threat posed by the hijackers was unknown. Therefore, after the realization that “the best place to prevent a hijacking is on the ground before the plane goes into the air,” the Nixon administration mobilized a preventive force of federal officers to implement pre-departure examinations at airports in an effort to prevent the travel of terrorists to the U.S.⁴ Even though the program was short-lived and the issue of immigration was often overshadowed by other problems such as the war on drugs, the concept of pre-screening individuals existed in the U.S. prior to the attacks in 2001, and ultimately reemerged after 9/11 as part of the new border security paradigm of pushing the border outward.

Before 9/11, the actions and activities that would one day be taken over by the Department of Homeland Security were spread across 40 different federal agencies, which had limited interaction and coordination. However, in the weeks after the 9/11 attacks, President Bush issued Executive Order 13228, establishing the Office of Homeland Security in the White House, which was tasked with developing and implementing a national strategy to secure the U.S. from terrorist attacks as well as responding to threats.⁵ In order to fully meet national security challenges, it was necessary to consolidate all of the different departments and agencies which had

a role in U.S. national security. Therefore, on June 6, 2002, President Bush proposed the establishment of a permanent Cabinet-level Department of Homeland Security (DHS) in order to achieve this goal of effectively and efficiently protecting the United States.⁶ The proposal for DHS, which President Bush formally submitted to Congress, included the proposed text for the *Homeland Security Act of 2002*; it was signed into law on November 25, 2002. This law allowed the President to submit a reorganization plan for a department, no later than 60 days after the act was signed into law. Later that day, President Bush submitted a plan outlining the organization and establishing DHS.⁷ On March 1, 2003, DHS became an official Cabinet-level department, including the newly created CBP subcomponent, and was tasked with the responsibility of ensuring a homeland that is safe, secure, and resilient against terrorism and other hazards.⁸

One of the largest vulnerabilities of the United States, which the 19 hijackers exploited in the 9/11 attacks, was weak border security and the lack of scrutiny regarding immigration. More than 500 million people, including 330 million noncitizens, crossed the U.S. borders annually at established ports of entry. Upwards of 500,000 or more people entered the U.S. illegally without inspection, by way of crossing America's land borders, many of which are unpatrolled.⁹ The combination of a dysfunctional immigration system, which was not seen as a national security issue, and

the lack of a systematic government study of terrorist travel, facilitated the entry of 19 high-risk individuals into the U.S. After 9/11, these weaknesses were specifically recognized in the *9/11 Commission Report*, which called for reforms and enhancements of America's border control, immigration system, and transnational information sharing regarding the travel of terrorists.¹⁰ The report observed that the nature of conflicts around the world had changed, resulting in the need for a shift of national security in order to address those conflicts accordingly. Instead of the threat being solely international and being fought on foreign frontiers with large armies, the threat suddenly became transnational in nature, with terrorist networks headquartered halfway around the world sending individuals to wreak havoc in the largest cities in the United States.¹¹ In this way, the attack on 9/11 demonstrated that terrorism against American interests could be brought to U.S. soil, resulting in a reconsideration of the way in which security agencies deal with the possibility of terrorism.

By recognizing the flaws of the immigration system and the threat posed by terrorists entering the country legally, the U.S. government acknowledged immigration as a national security issue. However, the challenge that immigration poses in an age of terrorism is identifying a process whereby the government is able to prevent the few people who pose a threat to the country from entering undetected. Those involved in national security after 9/11 suggested adopting policies and programs

that would “push the borders out.” By implementing this suggestion, the U.S. could take a good step toward making the country safer by being able to detect those few dangerous people.¹² This concept of extending the border outwards would allow for the identification and tracking of potential threats at a distance. Commenting on the circumstances regarding America’s border control, Customs and Border Protection’s first commissioner, Robert C. Bonner, said that the United States could “no longer afford to think of the border merely as a physical line separating one nation from the other.”¹³ Accordingly, in addition to providing security at America’s borders and ports of entry, CBP was also tasked with the responsibility of extending the zone of security beyond America’s physical borders.¹⁴ By utilizing this new model of border control specified as “pushing the border outward,” the U.S. authorities were able to have the capability of identifying potential threats and addressing them before they were able to reach the physical American borders.¹⁵

The recommendations of the *9/11 Commission Report* reaffirmed the actions the government took post 9/11 to reform border security. For example, in order to strengthen aviation security, the report called for a strategic plan comprised of a better screening process, enhanced information sharing, and extended coordination among other governments. In an effort to strengthen information sharing, improve cooperation among governments regarding aviation security, and

push the border outwards, U.S. authorities specifically sought to gather and examine PNR data of individuals traveling to the U.S. before they actually arrived in the country. In November 2001, the United States Congress passed the *Aviation and Transportation Security Act* (ATSA), which required foreign airline companies operating passenger flights to, from, or through the U.S. to transfer PNR data of the passengers to the U.S. Customs and Border Protection before takeoff.¹⁶ PNR data consists of the passenger's contact information (including the address, phone number, and e-mail address of the passenger), financial data, ticketing field information, travel itinerary, and information regarding journeys completed in the past; all of this is contained in the airline companies' reservation and departure control systems.¹⁷ Pursuant to ATSA, an airline must provide CBP with electronic access to its PNR information when requested to do so, in order to allow CBP to directly collect the PNR data from the airline's electronic reservation and departure control systems. It is crucial to note that ATSA does not limit what types of PNR data CBP is allowed to access. Also, the law allows CBP to share PNR data that it has gathered with other federal agencies for national security purposes, while complying with the regulations for federal inter-agency information sharing under the Privacy Act.¹⁸ Yet, the Freedom of Information Act (FOIA) protects the PNR data collected by CBP from being shared with non-governmental third parties. FOIA also limits the public disclosure of information since

such disclosure of certain information would create an unjustified invasion of privacy.¹⁹

Although the U.S. deemed it necessary for foreign airlines to cooperate by providing PNR data, in order to ensure aviation safety and protection of national security, the EU regarded this legislation as a unilateral imposition of rules, which would negate its perceived duty to protect such sensitive personal information.²⁰ The EU airline companies found themselves in the middle of this conflict; compliance with ATSA would violate *Directive 95/46/EC*, the 1995 EU Data Protection Directive. However, compliance with the Data Directive would defy ATSA, which would result in fines, flight delays, and cancellations, or even total loss of landing rights in U.S. territory.²¹ Due to 9/11 there was a sentiment of sympathy for the United States, and an understanding for the motives behind ATSA; however, there were also concerns throughout the EU regarding the scope of the information being gathered, such as the specific information fields and retention periods, and the possibility of the U.S. authorities using the collected information for purposes other than counterterrorism.

In the months after 9/11, the National Commission on Terrorist Attacks Upon the United States – the commission which produced the *9/11 Commission Report* – and other national security policymakers scrutinized America’s system of security. Throughout this examination, the Commission identified and scrutinized the vulnerabilities that high-risk individuals

had previously been able to take advantage of to wreak havoc on the country. Reforms and reorganization of departments were crucial to better protect the U.S. and prevent future terrorist attacks on U.S soil. As a result, the Department of Homeland Security was created and tasked with ensuring the safety of the country. Also, the Customs and Border Protection, a subcomponent of DHS, received access to PNR data from foreign airlines in order to pre-screen individuals before their initial departure instead of upon their arrival in the U.S. Thus, gathering PNR data from foreign airlines successfully established a line of defense far beyond the physical borders of the U.S.

EU-PNR Agreement: Pushing the Border Outwards

The debate regarding the sharing of PNR data by the EU with the U.S. has been contentious, raising disagreements concerning anti-terrorist legislation, privacy regimes, the processing of data, and the protection of the collected data. After the terrorist attacks on September 11, 2001, the U.S. overhauled the legislative and regulatory system of domestic security, paying specific attention to aviation security; however, in doing so, they paid less attention to the possible criticisms and noncompliance of foreign agencies and organizations. This unilateral imposition of rules by the U.S. upon the EU strained previously strong transatlantic relations. However, the two sides were able to come to a formal agreement after negotiations. This section aims to describe the development of the EU-U.S.

PNR Agreement and illustrate the way in which the U.S. imposed its security values on the European security policies, by examining several rounds of negotiations between the U.S. and the EU.

Because of the gravity of the threat of terrorism around the world, both the U.S. and the EU recognized the necessity of establishing an agreement that would facilitate cooperation concerning the transfer of PNR data from the EU to the U.S., prior to the departure of all flights from the EU to the U.S. However, since the EU has strict legislation regarding privacy protection and the transfer of personal data of its citizens, its representatives were concerned about the effect that the agreement would have on their privacy protection legislation.²² The EU Data Protection Directive restricted the transfer of personal data to countries without data protection laws similar to those in the EU. The U.S. did not have a privacy regime similar to that of the EU; therefore, the European Parliament and the Article 29 Working Party (WP29) – an advisory board that recommends whether EU actions are in accordance with the Data Protection Directive – deemed the transfer of the information to the U.S. to be in violation of the Data Protection Directive.²³ Since the PNR issue involved air travel, the European Commission regarded the issue as falling under the Common Transport Policy, which was included as part of the Internal Market in EU Treaty Law at the time. Under the European Commission’s interpretation of the issue and the issue’s placement in the overall structure of the

EU, the European Commission believed that the EU had the power to enter into negotiations with the U.S., rather than leaving it for individual member states to achieve.²⁴ Therefore, regardless of the lack of privacy protection in the U.S. and the European Parliament and WP29's recommendations, the European Commission entered into formal negotiations with the U.S. Department of Homeland Security in the fall of 2002, in an effort to work towards an agreement.

In December of 2003, after more than a year of negotiations, the Department of Homeland Security, the European Commission, and the European Council reached a preliminary agreement concerning the transfer of PNR data from European airlines to the Customs and Border Protection. Under this agreement, the CBP was permitted to gather 34 types of data about passengers traveling on airplanes flying from Europe to or through the U.S.²⁵ Understanding the importance of protecting personal data in the EU, the U.S. agreed to not gather certain sensitive information – such as an individual's religious, political affiliation, or medical history – while collecting PNR data.²⁶ Frits Bolkestein, a member of the European Commission, articulated that the end result of the negotiations was “balanced,” and that if the agreement had not worked out, it would have caused unnecessary hardships to EU passengers and airlines.²⁷ This preliminary agreement was signed and approved by the EU member states in March 2003, and was to stay in effect until the end of 2007.

The first PNR agreement went into effect in May of 2004, allowing for the transfer of PNR data to DHS as long as DHS implemented certain protections of the data that were sufficient to safeguard passenger privacy.²⁸ However, the PNR agreement was met with objections from the European Parliament and the WP29. The main concerns of the European Parliament and the WP29 were the retention period of the data, and the purposes for which the data could be used.²⁹ Also, the WP29 challenged the disproportionate nature of the agreement: the U.S. was achieving what it had set out to do, but the EU had to compromise several of its significant values of data protection. However, negotiations continued because of the EU's interest in commerce and access to the U.S. market. Refusing the agreement would limit vital access to the U.S. market, which would affect Europe and European travelers; thus, the European Commission recognized the necessity of reaching an agreement. Nevertheless, the European Parliament and WP29 again challenged the agreement in 2005 and called for it to be annulled by the European Court of Justice (ECJ), the EU's highest court. The ECJ ruled that the European Commission had overstepped its authority when it agreed to provide the U.S. authorities with personal data of airline passengers flying from Europe to the U.S. The ECJ found that the European Commission and the Council of Ministers did not have the authority to enter into such an agreement, and therefore the ECJ annulled the 2004 EU-U.S. PNR Agreement. The ECJ

based its decision on the European Commission and the Council of Ministers' lack of authority to enter into the agreement, rather than the agreement's potential violation of the EU's Data Protection Directive.³⁰ As a result, the ECJ provided the U.S. and the EU with a deadline of September 30, 2006, to reach a new agreement; during this time airlines were allowed to continue compliance with the 2003 agreement until a new agreement was reached.

During the period of interim negotiations, the EU, complying with the ECJ's decision, decided to address the PNR data issue as a security issue instead of as a transport issue. Therefore, the PNR data issue was moved from the first pillar of the Maastricht Treaty, concerning the Internal Market and jurisdiction of the European Commission and Council of Ministers, to the third pillar, which required intergovernmental decisions between all of the EU member states.³¹ This shift to a different jurisdiction within the EU structure complicated negotiations because there was no EU-wide law regarding the transfer of information to the U.S.; so, during the interim period, 25 to 27 different national laws were used to protect the data transferred to the U.S. Since the U.S. wanted to keep the PNR data for a longer period of time than the period of time proposed in the agreement, in addition to having the capability to share the information with other U.S. agencies, the EU was not able to consent to a satisfactory agreement without risking going back to court. A new round of

negotiations began in February 2007. The EU continued to express its concerns regarding the invasion of privacy of its citizens and the possible misuse of personal information. However, the Department of Homeland Security redesigned its Automated Targeting System, through which the PNR data is fed, to implement more rigorous privacy protections by employing a filter to sift out and obscure sensitive data from PNR.³² Despite the contentious nature of the negotiations, the EU and the U.S. were able to reach an agreement, on July 23, 2007, that respected both the European Court of Justice's decision and the U.S.'s requests; this agreement was to be effective for seven years.³³

However, when the Treaty of Lisbon (the treaty between EU member states that amended the Maastricht Treaty and the Treaty of Rome establishing the basis of the EU) went into effect in 2009, the process of how the EU would address counter-terrorism issues, like PNR, was changed. Now the European Parliament would have to approve the agreement; in 2011, negotiations commenced for a new PNR agreement.³⁴ The negotiations concluded in 2012, establishing the PNR agreement that is in place currently. The 2012 agreement was set in place for seven years; at the end of that time, it will undergo negotiations for revision. Under the 2012 agreement, Customs and Border Protection collects 19 types of PNR data, which are enumerated below:

1. PNR record locator code
2. Date of reservation/issue of ticket

3. Date(s) of intended travel
4. Name(s)
5. Available frequent flier and benefit information (i.e., free tickets, upgrades, etc.)
6. Other names on PNR, including number of travelers on PNR
7. All available contact information (including originator information)
8. All available payment/billing information (not including other transaction details linked to a credit card or account and not connected to the travel transaction)
9. Travel itinerary for specific PNR
10. Travel agency/travel agent
11. Code share information
12. Split/divided information
13. Travel status of passenger (including confirmations and check-in status)
14. Ticketing information, including ticket number, one-way tickets, and automated ticket fare quote
15. All baggage information
16. Seat information, including seat number
17. General remarks including OSI (other supplementary information), SSI (special service information), and SSR (special service request) information
18. Any collected APIS (Advanced Passenger Information System) information
19. All historical changes to the PNR listed under points 1 to 18³⁵

These nineteen data fields have been and will continue to be maintained in an active file for the duration of the seven-year agreement period; eight years thereafter,

they will be contained in a dormant file with limited access.

This PNR information is made available by the European airlines well before a passenger's arrival in the U.S.; airlines transfer PNR data to DHS 72 hours prior to initial departure.³⁶ The United States has the ability to examine the travelers' information before they arrive at the airport for their flights. Additionally, the 2012 agreement includes new provisions on data protection that were absent from the previous agreements. For example, the 2012 agreement strengthens passengers' rights by clarifying that passengers have the right to obtain information about the way their data is used and to access their PNR data held in U.S. databases.³⁷ The 2012 agreement also includes a new option for passengers to correct or delete their PNR data. According to the European Commission, one of the most important data protection changes in the 2012 agreement is that profiling based solely upon PNR data is prohibited. Also, there must be a human being involved in making the decision to prevent a passenger from flying.³⁸ Throughout the process of negotiations, the EU and U.S. worked together to create the 2012 PNR agreement, which implemented improved data protection orders. Additionally, the agreement acted as an efficient tool to fight terrorism and serious transnational crime by providing the U.S. with the information well prior the flight departs the EU.

By having access to PNR data before an airplane's

initial departure, Customs and Border Protection is responsible for scanning the provided data and identifying individuals who possibly pose a threat to the country. This pre-departure vetting of individuals traveling to or through the U.S. ultimately moves the immigration screening function further away from the physical border of the U.S., thus also outwardly extending the first line of defense against potential threats. In a statement regarding the 2012 EU-U.S. PNR agreement, former U.S. Secretary of Homeland Security, Michael Chertoff, explained the significance of PNR data in regard to the prevention of terrorism:

PNR data is a proven resource for connecting the dots associated with terrorist activity and serious transnational crime... Our frontline personnel did not have this tool on September 11th. Investigations after the attacks showed that PNR data would have, within a matter of moments, helped to identify many of the 19 hijackers by linking their methods of payment, phone numbers and seat assignments.³⁹

Since the passing of the *Aviation and Transportation Security Act* in 2001, and the ensuing agreements between the EU and the U.S., PNR data has proven to play a key role in terrorism investigations and the disruption of terrorist travel. For example, the U.S. used PNR data to identify and arrest both the Times Square bomber, Faisal Shahzad, and David Headley, a conspirator in the Mumbai Terrorist attack.⁴⁰ Even

though the EU has shown reservations toward the transfer of PNR data, the several rounds of negotiations proved to be successful, and have maintained a strong transatlantic relationship. With access to the PNR data of air travelers bound for the United States 72 hours before their departure, U.S. authorities can deprive terrorists of the ability to enter the country, and further ensure the safety of the United States and its people.

EU-U.S.: Two different cultures of privacy

Despite the bilateral agreement on the transfer of PNR data from the EU to the U.S. being achieved amicably, the EU-U.S. PNR Agreement was surrounded by controversy. The U.S. deemed the collection and sharing of the personal data of individuals on airlines traveling to the U.S. from Europe to be a necessary measure in the fight against terrorism. However, the agreement was heavily criticized in the EU because it was said to pose a “high risk of violation of EU legal standards, fundamental rights and data protection standards.”⁴¹ Nevertheless, the European Commission and Council of Ministers continued negotiations to reach an agreement that satisfied both sides’ requirements, resulting in the EU becoming more flexible with its understanding of balancing the protection of privacy and security. Moreover, the EU has recently put forward a plan to develop its own PNR program that is similar to the EU-U.S. Agreement. The security measures that were previously criticized by the EU for violating EU privacy and data protection standards are now being

emulated in the EU's own PNR program. This section seeks to examine the shift in the European perspective on privacy as a result of the transatlantic fight against terrorism and dispute over the transfer of PNR data.

The shift of border control toward addressing threats prior to a traveler's initial departure, rather than upon arrival, emerged in the U.S. after 9/11. However, other countries, specifically the members of the EU, did not initially adopt this view. The idea of extending government action beyond the physical border was developed from the larger concept of homeland security, which was a direct result of the U.S.'s insecurity after the terrorist attacks on 9/11. Artur Gruszczak and Piotr Rakowski define homeland security as "a concerted effort involving public (government) and private security capabilities aiming to prevent risks from arising, protecting individuals and institutions and containing impacts of a crisis or a catastrophic event."⁴² Gruszczak and Rakowski state that homeland security is a "U.S.-born concept" and became globalized subsequent to the Bush administration's reliance on the North Atlantic Treaty Organization (NATO) alliance to fight the war on terror militarily.⁴³ As allies of NATO, the European Union member states were called to assist the U.S. in the war on terror. As a result of other governments participating alongside the U.S. to fight the war on terror, the concept of homeland security became the product of intergovernmental cooperation instead of the U.S.'s work alone.⁴⁴ In this way of extending the concept of

homeland security to encompass transatlantic security, the concept of homeland security was effectively imposed upon the EU and its own security policies.

In addition to the concept of homeland security being imposed upon the EU, the concept of homeland security was controversial to the EU and its member states in several other ways. The EU is a political union made up of sovereign member states; it is not a country. The nature of the EU, specifically the division of powers and responsibilities between the member states and the EU institutions, is an important determinant of EU security policies. Gruszczak and Rakowski note that the issue of external cooperation in the EU, in the area of security, is “highly sensitive, deeply affecting the sovereign national prerogatives of the member states.”⁴⁵ As a result, external security was governed exclusively by the member states themselves and not by the EU as a whole. Therefore, the majority of EU policy-makers instead thought in terms of “internal security,” “civil protection,” or “public order,” rather than homeland security, since there was no unified approach to homeland security across the EU.⁴⁶

Additionally, the EU and U.S. have conflicting philosophies regarding privacy and security. In the EU, the right to privacy is articulated in Article Seven of the EU Charter of Fundamental Rights (EUCFR); in addition, Article Eight of the EUCFR expresses the right to data protection.⁴⁷ The concept of data protection emerged in Europe during the 1970s, due to the

establishment of large data banks and the possible development of a centralized system for processing personal data.⁴⁸ In 1995, the EU adopted its first data protection law, *Directive 95/46/EC*, which aimed to protect privacy during the processing of personal data. While stipulating legitimate ways of processing personal data, the Directive also further safeguards certain data that is considered to be sensitive in nature. This type of data includes racial or ethnic origin, religious beliefs, political opinions, trade union memberships, and data concerning an individual's health.⁴⁹

There is a devotion to data protection and a clearly expressed right to privacy in the EU that is not as evident in the U.S., especially when it comes to the security of the country. In the U.S., the right to privacy is not explicitly articulated in the Constitution, though it is often inferred from the First, Fourth, Fifth, and Fourteenth Amendments. Also, U.S. privacy regulations are fragmented and only cover specific types of information in limited situations. However, certain U.S. legislation sacrifices certain aspects of personal privacy, which are protected in the EU, in order to protect the greater American society from terrorism.⁵⁰ For example, under the *Patriot Act of 2001*, the U.S. government's surveillance powers were expanded to monitor phone and email communications, collect bank and credit reporting records, and track the activity of Americans on the Internet in hopes of strengthening security.⁵¹ There are undoubtedly differences in the cultures,

philosophies, and values between the U.S. and the EU; however, by persuading the EU to negotiate its terms of the PNR agreement and alter its privacy policies, the U.S. successfully established an American line of security and border control in Europe, in addition to planting the idea of future security provisions in the EU.

Although the EU is dedicated to protecting its citizens' privacy, there is an increasing need to more securely safeguard the EU against the threat of terrorism; this is resulting in the reevaluation of risks and benefits regarding privacy protection. In this way, the EU is starting to look towards the U.S. as a role model regarding counter-terrorism measures, specifically aviation security. For example, the EU proposed a law allowing the use of PNR data for law enforcement purposes, and more specifically, to prevent and combat terrorist offenses and organized crime. The European Commission proposed the EU PNR directive in 2011, and the most recent negotiations were finalized in April 2016. These negotiations created the *Directive (EU) 2016/861*, which was put into effect on April 20, 2016.⁵² This Directive requires that a Passenger Information Unit (PIU), within each EU member state, collect PNR data of international flights arriving or departing from that member state's territory. The PUI is also responsible for analyzing the PNR data, identifying persons who may be involved in a terrorist organization, creating and updating a list of risk indicators for the

assessment of such persons, providing intelligence regarding travel patterns or trends relating to certain terrorist activities or organized crime, and utilizing risk assessment in criminal investigations and terrorist prosecutions.⁵³

The 2007 EU-U.S. PNR Agreement clearly served as a model for the EU PNR Directive because the 19 data sets that are to be collected under the EU PNR Directive are the same as the 19 data sets mentioned in the 2007 EU-U.S. PNR Agreement. In order to comply with the EU PNR Directive, the airlines must make the data available twice: 24 hours before the scheduled departure and again immediately after flight closure. In this way, the EU is essentially now implementing a unified PNR program mirroring the PNR system that it opposed several years earlier, while still employing more stringent privacy protections. According to the European Commission, a harmonized approach to PNR data collection and information sharing will better ensure EU safety against the threat of terrorism.

The threat and the fear of terrorism are growing throughout Europe. There have been numerous terrorist attacks in Europe within the past 15 years: an attack on a train line in Madrid in 2004, two shootings in Paris in January and November of 2015, and in Brussels in March of 2016.⁵⁴ Therefore, as the threat of terrorism grows throughout Europe, the EU priority could move towards counter-terrorism surveillance measures to include data sharing, while also trying to preserve certain data

protection provisions, as data protection still remains one of the cornerstones of the EU. It is important to note that the current EU-U.S. PNR Agreement is not reciprocal. Therefore, the EU transfers data to the U.S., the U.S. does the analyzing of the information and the policing of high risk individuals, and the EU receives nothing in return. One of the driving motivators for the EU to establish its own PNR program is the prospect of renegotiating the PNR deal with the U.S. so that it becomes reciprocal. While the EU does not currently receive concrete data in return, the U.S. does provide the EU with some level of security, since fighting terrorism in the U.S. contributes to the fight against terrorism worldwide. Also, by motivating the EU to create its own PNR program, the U.S.'s security-driven goals permeate the security policies of the EU, ultimately furthering the U.S.'s paradigm of pushing the border outwards.

Conclusion

Although there have been obstacles while developing a standard for PNR data sharing from the EU to the U.S., the EU-U.S. PNR Agreement successfully established a line of American security in Europe, ultimately pushing the metaphorical border further away from the physical border of the U.S. The terrorist attacks on 9/11 monumentally affected the U.S.'s security policies; however, as President Nixon demonstrated with the establishment of the Customs Air Security Program in 1970, the overarching concept of vetting individuals traveling to the U.S. on foreign

airlines prior to their initial departure has existed in the U.S. for many years. Post 9/11, this idea re-emerged and was accompanied by the more general idea of pushing the border outward in all aspects of security. However, when extending a border outward, a country can quickly begin to encroach on other countries' borders and security policies, which could produce tensions such as those that arose between the EU and the U.S. regarding the protection of privacy and personal data. Nevertheless, the U.S. prevailed by renegotiating the terms of the PNR Agreement, and successfully pushed its metaphorical border outward, influencing the EU's security policies. As terrorism becomes more of a threat around the world, it will be interesting to see whether or not the EU continues to change its policies regarding data protection and whether or not the EU-U.S. PNR Agreement will become reciprocal.

NOTES

1. Gregory W. Bowman, "Thinking Outside the Border: Homeland Security and the Forward Deployment of the U.S. Border," *Houston Law Review*, 44, no. 2 (2007):192.
2. Ibid.
3. "Remembering Two 9/11s," *U.S. Customs and Border Protection*, U.S. Department of Homeland Security, published September 11, 2014, <https://www.cbp.gov/about/history/history-leads-to-the-present/remembering-two-911s> (accessed March 2, 2017).
4. Ibid.
5. Elizabeth C. Borja, *Brief Documentary History of the Department of Homeland Security* (Washington: Department of Homeland Security History Office, 2008) 4.
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The Tragic Aspects of *Antigone* in Sophocles and Sophoclean Interpretations

Angelica Sisson

The Sophoclean play Antigone, commonly dated to 438 B.C., is about the daughter of Oedipus and Jocasta who defies the royal decree of her uncle and king Creon to bury her brother Polynices after he is killed by their brother Eteocles while warring over the crown of Thebes.¹ The themes of Antigone cause it to be commonly translated and reimagined both in performance and in other media forms. However, due to the sensitive nature of such themes, later interpretations of Antigone lose the tragic nature of the Sophoclean original and render themselves propaganda.

A*ntigone* takes place in the Kingdom of Thebes. After Oedipus blinds himself upon discovering he is both son and husband to Jocasta, as well as father and brother to Antigone and her siblings, he departs the city and leaves his sons Eteocles and Polynices to alternate rule over the kingdom. However, this unsteady balance of power fractures, and the two brothers ultimately kill each other in a fight for permanent rule. As a result, Jocasta's brother and Antigone's uncle Creon becomes the king of Thebes. In an attempt to calm the politics of the factions created by Eteocles and Polynices, Creon proclaims Eteocles the proper king, awards him a funeral, and decrees that Polynices be left unburied

outside the city walls, an affront to contemporary Greek tradition. However, Antigone defies this royal decree, declaring that her duty to her blood and to the gods is more important than her duty to the king. In reaction to her insubordination, Creon orders her to be immured despite her engagement to Creon's son, Haemon. When Haemon discovers Antigone's fate, he kills himself. When Haemon's mother Eurydice realizes her son is dead, she too kills herself. As his family dies around him, Creon recants his order of Antigone's death and demands that the wall trapping her inside a cave be torn down, only to discover that she has hanged herself.²

There are two main themes present in *Antigone*. The first is that of the individual against the state, which is represented by Antigone burying her brother even as the king and the kingdom forbid it. The second main theme is that of friction between divine laws and human laws. Antigone follows the divine law that demands a proper burial ritual, whereas Creon creates his own laws and superimposes them over the divine laws. Due to these widely applicable focuses, *Antigone* both as a play and as a character has over time become a symbol of revolution. Writers, producers, directors, and actors have often morphed Antigone into being an obvious symbol of revolution in order to make subtext more obvious. However, this move typically leads to a manipulation of text, which, regardless of the intention, often results in propaganda. Propagandist art leaves out viewpoints and context to create a singular,

biased message that influences public opinion while the public remains unaware.³ In the case of *Antigone*, this manipulation of meaning occurs most often when playwrights pick and choose which parts of the story will be changed for a contemporary audience instead of transforming all the ancient themes into contemporary equivalents. Context is then left out, as well as the factors of *Antigone* that define it as a tragic play. Yet, when artists maintain the themes that qualify *Antigone* as a tragedy, they maintain the tragedy itself no matter if there is a change in time, place, or even plot.

The first factor of tragedy found in *Antigone* is the inherent suffering that the main characters endure. Antigone was born of her brother and her mother, and due to this incestuous parentage, she was cursed from her conception. Creon, Antigone's uncle and the king of Thebes, also inherits sufferings of incest by being a member of the House of Laius, although not to the same degree as Antigone. Kierkegaard argues the point of Creon's inherent suffering by saying, "Oedipus' sorrowful destiny re-echoes in the brother's unhappy destiny, in the sister's collision with a simple human prohibition; the tragic fate of Oedipus is, as it were, the after effects which ramify from a single branch of his family."⁴ While Antigone freely buries her brother and Creon freely forbids the burial, their actions trace back to the actions of Oedipus and the prophecy given to the House of Laius in the Oedipus Cycle that the child born to Jocasta and Laius "would kill the ones who brought

him into the world.”⁵ Therefore, as members of Oedipus’ family, both Antigone and Creon inherit his suffering.

Another factor of Greek tragedy is that both sides of a conflict are sympathetic. In *Antigone*, Creon follows the rules of the *πολις* (city) while Antigone follows the laws dictated by *φίλος* (familial love). Both characters “start from positions which are fully validated in cultural terms,” and both are mistaken in the extremes to which they take their actions.⁶ In terms of the plot, Antigone succeeds. In the opening scene of the play she states, “I will bury him: to me, it’s good to die upon doing such”; the chorus later affirms the power of her choice, saying, “But living by your own laws, alone among mortals, you will descend into Hades.”⁷ Antigone intends to act against the state until her goal is fulfilled - her goal being to die for her brother, not just to bury him. Therefore, Antigone intends to continue her actions against the state after completing her brother’s burial. Creon’s goals focus on people obeying his laws; his goals are clearly left unfulfilled as Antigone repeatedly disobeys him up to and including her suicide. Creon’s wife Eurydice and their son Haemon also disobey Creon, as they too commit suicide in reaction to the effects of Creon’s decree.

A tragic conclusion must not be a conclusion immediately apparent from the beginning of the story, for such a conclusion “would seem not only devoid of value but actually destructive of value, and so not worth the telling.”⁸ It is at this conclusion that the potentiality of tragedy becoming propaganda is especially apparent

for “if a story is not ultimately tragic, it is not tragic at all.”⁹ This demonstrates the necessity that both Creon and Antigone begin the play as sympathetic characters. If the audience can tell who the author has determined to be morally correct or who they as spectators wish to support from the beginning, there is no point in the story being told; it has lost the tension that makes it art and has become a piece of propaganda. Therefore, while Creon ends the play characterized as a tyrant, “Sophocles takes careful measures at the beginning of the play not to depict Creon as a tyrant.”¹⁰ In order for a reinterpretation of the play to maintain tragic standards, both Creon and Antigone must begin the play on equal moral ground.

If both characters begin the play on equal footing, sympathy for both is more easily maintained throughout the play. The case for Antigone’s sympathy is obvious: she loses her entire family (either by their death or her choice), her engagement is dissolved, and she kills herself. Sympathy for Antigone is created by her circumstances rather than her choices, since she proclaims her satisfaction with her choices. However, a sympathetic Creon is more difficult to produce, as his choices result not only in Antigone’s suffering, but also in the suffering of his family. At the conclusion of the play, Creon has lost both his wife and his son. While such a loss may be construed as a punishment for Creon’s ὑβρις (hubris), his ὑβρις is not rooted in ego but rather in his desire to do good for the πόλις. Therefore, Creon is more

sympathetic. The personal deaths that Creon endures are his punishment, but they also remind the audience of the dangers of believing too firmly in one's ideals and disregarding the warnings of one's supporters. In this way, the audience may see itself in Creon, and he is rendered a sympathetic character. Creon is a warning, and as a character he requires multi-dimensionality so that the audience can empathize with him rather than write him off as a nameless evil who is neither personable nor relatable.

Antigone and Creon's conflicting goals cause their *αγων* (struggle) and result in a person rebelling against tyrannical rule. Additionally, it shows the tension between divine guidance and the instinct of humans to create their morality. These two themes are intertwined in *Antigone*; some audiences may interpret Antigone's rebellion as an individual revolting against righteous authority rather than an individual revolting against an oppressing authority. Antigone's actions constitute support of divine law and show her in possession of "a spiritual attitude that places her on the side of divine law; *αὐθαδία* as a form of *ὑβρις* is to be found, not in her, but in Creon."¹¹ *ὑβρις*, both in Greek tragedy and Classical tradition as a whole, is often the hero's fatal flaw, yet in *Antigone*, *ὑβρις* is the fatal flaw of the antagonist Creon. While Creon issued his decree to improve the governing of the city, he did not do so in accordance with divine law but rather to supersede divine law. If Creon did not ultimately repent, tragedy would not have occurred, as

he would have achieved his ends. Antigone also would have achieved her intended end: death.

Within the text, Antigone and Creon are distinctive in the words they use to characterize their arguments. In such arguments, they “speak in different moral voices” by using the same words but implying different meanings.¹² Antigone makes a point throughout the play to say she is advocating for the divine *δικη*, while Creon follows the manmade *νομοι* of the *πολις*.¹³ Creon calls his declarations regarding the burials *νομοι*, whereas Antigone refers to them exclusively as *κήρυγμα* (proclamations) and only uses *νομοι* when referring to divine laws.¹⁴ The best example of Creon’s use of *νομοι* is in Haemon’s refusal to heed commands wherein Creon says, “But whoever by overstepping overpowers the laws, or whoever thinks to give orders to those in power, she is not such does not fall into praise from me.”¹⁵ The use of the word *νομοι* in this passage to describe the laws of the city highlights the fact that Creon’s *νομοι* are strictly those of humans, which contradicts the *νομοι* of the gods, the *δικη* (justice) by which Antigone ardently lives.

This *δικη* guides Antigone’s actions, as there is little evidence of Antigone’s familial bond outside what the gods demand; her burial of her brother is necessitated by her devotion to divine law, not her devotion to family. Antigone “performs the burial...because the gods demand it and not so much because she loves her brother,” and this gives credence to the thought that

Antigone's actions are morally correct in that they are in accordance with divine law, which she ranks above familial devotion. This is shown by Antigone's utter rejection of Ismene upon her unwillingness to join in the burial of Polynices. In reaction to Ismene's refusal, Antigone says, "I do not love a friend who only loves in words."¹⁶ Therefore, Antigone's devotion to burying her brother is not familial, because she not only lacks such devotion to her sister Ismene, but also treats her as an anathema.

While divine approval of Antigone's actions is integral to the Sophoclean story, many versions of *Antigone* do not take place in societies where the disregard of burial rites has a divine impact. Therefore, an audience at a production of the original Sophoclean play in modern times may misinterpret Antigone's action for familial devotion and miss the second layer of the play which discusses the difference between divine obligation and freely given familial devotion. In the Sophoclean text, divine law guides Antigone so completely, and almost severely, that she exists more firmly in the divine world than in the human one. Antigone possesses a "lonely sorrow that finds no pity in the whole world around her."¹⁷ When the play is recast for modernity, those responsible may choose to ignore the divine aspect of Antigone and focus solely on the disrespect of leaving bodies unburied.

The writers of Greek tragedy were not following the rules to which modern readers are accustomed;

rather, they were creating such rules - as were the actors involved in such productions of Sophoclean interpretation. Improvised tragedy and tragedy under construction must be considered in addition to the tragedy itself, for as Aristotle says, “[Tragedy] originated from improvisation.... tragedy gradually evolved as men developed each element that came to light and after going through many changes, it stopped when it had found its natural form.”¹⁸ The interpolations of *Antigone* are derivative of this improvisation. A phrase in a speech of *Antigone*’s, according to Goethe, provided “a motive which is quite unworthy and almost borders upon the comic...[it] disturbs the tragic tone, and appears to me very far-fetched to save her too much of dialectical calculation.”¹⁹ One hundred and fifty years after Goethe wrote, Denys Page conducted a study of interpolations in Greek tragedy and determined that the phrase in question was likely inserted by an actor. The argument that the set of lines are interpolation is twofold. Thematically, the lines actively disrupt the argument *Antigone* makes in defense of her actions, for “her apparent devotion to Polynices is undercut by the curiously generic character of a calculation which implies, inter alia, that she would not bury him if their parents were still alive.”²⁰ Another spot of evidence for interpolation is that the lines in question echo the following lines of Herodotus:

Herodotus: There may be another husband for me
Sophocles: If a husband died, there may be

another

H: and another child, if I lost such

S: and if I lost a child, there may be one from another man

H.: but with father and mother no longer living

S.: but mother and father are concealed in Hades

H.: in no way may there be another brother.

S.: so there is no brother who could ever grow again.²¹

Page argues an actor made the change not for the overall thematic tone of the story but to “expand the part of Antigone at its most pathetic moment, in order to increase the sadness of the circumstances.”²² Such an action enhances the audience’s view of Antigone in a moment and does not discredit the audience’s view of another character. Therefore, this interpolation would not be considered a propagandist rebranding.

It is unlikely the audience heard the above lines and was dissuaded from all of Antigone’s other points. The actor likely added it “either deliberately before or impulsively during a performance...they possess an incongruity which would hardly be noticed during a performance on the stage.”²³ Such motive shows that not every facet of *Antigone* was initially looked at with a political perspective but rather a dramatic one, which is the opposite of the modern playwrights and commentators who use *Antigone* as a vehicle for political arguments.

For Goethe and many others, “[Sophocles] is the touchstone of ideal tragic form.”²⁴ It is tempting to make

Creon a one-dimensional antagonist with whom the audience is unable to sympathize. However, if all the blame is laid on Creon, then Antigone as a character is also corrupted. In a case where Creon was dictatorial and almost evil, Antigone would be written as a faultless, blameless character, yet if a tragic character “is entirely without guilt, the tragic interest is nullified.”²⁵

At the time of *Antigone*'s initial performance in Athens, there likely was a political impact due to the recent actions of the ruler Pericles at the fall of Samos, where “prisoners were allegedly crucified, clubbed, and left unburied.”²⁶ In Athens, Pericles' actions caused controversy, even though the law validated his position, because “the crucified Samians had been traitors and thus did not merit burial.”²⁷ Sophocles and Pericles were contemporaries, and while some scholars argue that the two were friends, playwrights often mocked Pericles, and Pericles is quoted as being derisive of Sophocles. Therefore, a majority of scholars argue that they only tolerated each other due to their similar high status.²⁸ In such a context, it is possible that Creon is meant to resemble Pericles, if only slightly. Another similarity between the two leaders is the manner of the death of the Samians who had gone unburied after they were executed by being “tied to boards and exposed until they died.”²⁹ Such a method existed so that those who carried out the order of execution could not be faulted for murder, since the death was by exposure. While Antigone kills herself before the intent is carried out, the

purpose of burying someone in a wall is so that those responsible for the burial are not responsible for the moment of death.³⁰ Other similarities between Creon and Pericles include speaking style, the public's suspicion of corruption, and the fact that the relationship Creon has with his son Haemon echoes the known friction between Pericles and his son Xanthippus.³¹ Making a character wholly unsympathetic and reminiscent of a current political leader could be construed as a revolutionary act, possibly another reason why Creon is a sympathetic character in *Antigone*, aside from holding to the tragic standard.

Antigone is not a tragedy due to Antigone's "spectacular crimes committed under reasonable, humanly understandable circumstances."³² It is a tragedy because of the circumstances and thus upholds Aristotle's belief that at the conclusion of any given tragic play, "the viewer should feel pity for the entire tragic action and for the whole suffering in the play."³³ While short-term goals of each character within the play are achieved - Antigone, Haemon, and Eurydice's suicides and Creon's sentence of Antigone - the long term goals are not: Antigone buried her brother but no one sided with her, Haemon did not marry his fiancé, Eurydice was not able to live without suffering, and Creon's sentence of Antigone was judged immoral. Therefore, due to this contradiction of short and long-term goals, the play and its characters serve the larger tragic action. Each member of the conflict is "accused

of being irrational; each turns on those they profess to care for; each in turn fails to persuade the other.”³⁴ Within ancient tragedy, “The characters are included for the sake of the action.”³⁵ A play devoted entirely to the characters and what they represent would be one that abandoned tragic standards and was devoted to the propagandist viewpoint that each individual character represents. Therefore, the play must be considered as a whole entity, with characters and plot given equal weight and neither given precedence over the other.

Tragedies enable writers “to explore freely political matters which would otherwise be too daunting and unyielding.”³⁶ With a plot already developed, writers are able to focus on other aspects of the story and more freely develop independent ideas. For the modern reader, *Antigone* seems to favor Antigone in the *αγων*. The presence of Tiresias supports this, as he shows that the gods favor her position, and he gives credence to Antigone’s claims when he says, “And such it is your [Creon’s] mind that sickens this city. For our altars and hearths entirely and fully are corrupted by the unfortunate, fallen son of Oedipus, the food of birds and dogs.”³⁷ Tiresias here is a voice of the gods clearly casting fault onto Creon. Such a favoring may indicate that Sophocles’ *Antigone* is itself propagandist. It is not the favoring of one character over another that constitutes propaganda, but rather the departure from the markers of tragedy and the taking of a singular approach to these characters.

However, propaganda is the sole support of one view, and both Antigone and Creon have inconsistencies in their logic, meaning that in order for either of these characters to be symbols of propaganda, these inconsistencies must be removed. Antigone's inconsistency arises in her claim that her actions are justified by her love for Polynices: "So I will go performing the burial rites for my loved brother."³⁸ Yet when Ismene refuses to participate in the burial out of fear of the laws, Antigone turns on her immediately, saying, "I would not call you, even if later you wanted to come."³⁹ Antigone is then basing all her action on her need to obey divine law, but in her obeying divine law she disregards human law, for "[she] is at once radically committed to the law and yet also violently abjected from and by it. Antigone's commitment to the polis therefore describes a certain kind of fidelity, one that is brought into being only insofar as it also *swerves* into another place."⁴⁰ Antigone's commitment to law is one that holds only as long as it suits her. Her commitment to familial devotion is the same. Therefore, such a disregard for Ismene discredits Antigone's argument that she places family above all else, in addition to revealing she does not act on familial devotion. Creon, too, has contradictions within his beliefs. His main argument is that all his actions are done for the betterment of the πόλις but when Haemon, Tiresias, Eurydice, and Antigone all disagree with him, he refuses to recant his decree. The Chorus too, disagrees with him, and upon his realization and recanting says,

“Alas! After a long time it seems you see what is just.”⁴¹ Through these apparent contradictions and paradoxes within the characters’ actions and motives it becomes clear that Sophocles’ *Antigone* is not in and of itself a piece of propaganda.

Another necessity of tragedy and character sympathy is that each character possesses some level of guilt with their actions, in accordance with Aristotle who “requires the tragic hero to have guilt.”⁴² Creon’s guilt and his acceptance of his guilt are obvious at the conclusion of the play as he laments all the deaths he caused.⁴³ Antigone’s guilt is less obvious as she herself does not recognize it. Antigone’s guilt lies in her extremism: her desire to die, and to die alone, in order to prove Creon wrong. In this desire she alienates and rejects Ismene, and she alienates and rejects Haemon by equating *τύμβος* (burial) and *νυμφεῖον* (marriage).⁴⁴ Antigone further isolates herself, saying, “There are no tears for my fate, no one laments me.”⁴⁵ Her martyrdom is self-inflicted and solitary and is a masochistic method of punishing Creon for his decree. Antigone’s suicide also casts more guilt onto Creon because she was not just his niece but also his intended daughter-in-law.

The relationship of Creon and Haemon is one that provides further context for the tensions located in the play; “Haemon reveals that Creon’s devotion to the state is becoming simply a rigid commitment to his own self-interest and detrimental to civic *homonoi*.”⁴⁶ By placing Creon and Haemon in opposition, Sophocles

is illustrating a divide within the family that is caused by a generational gap.⁴⁷ A common theme in literature is that the young see what must be changed in the *πολις*, while the elderly do not; by placing Haemon on Antigone's side it becomes clear that this is an issue that may be characterized according to age. Ismene, the other youth in the play, also wants to bury Polynices, but she just does not wish to break the rules. In this way, all youths in the play have a similar political outlook. Even Tiresias, while he is by no means a youth, is led to the stage by a young boy, perhaps signaling again the divide of age and how that influences political views.⁴⁸

The first notable modern performance of *Antigone* took place in 1922 and was adapted by Jean Cocteau. Cocteau's *Antigone* was not a precise line-by-line translation but rather an attempt to evoke in French the emotions that had been evoked in the Greek. Such a translation was taken "from a bird's eye view" in order to see that "great beauties vanish and others emerge; connections are formed, blocks, angles, unexpected reliefs."⁴⁹ Cocteau's *Antigone* was written in response to the understanding of art at the time, which promoted not an "aesthetic shock and aggression" but rather "something more profound."⁵⁰ This something more profound is not clearly defined, thereby allowing the artists to find their own definition of art. Cocteau, in his definition, aimed to break away from tradition and to "[use] a strategy of provocation."⁵¹ Cocteau befriended contemporary artists, and through those friendships

and partnerships “[endeavored] to create and stage total theatre, where the verbal text is not paramount but rather kept in the background, as a function of the priority of the musical, the choreographic and the scenographic texts.”⁵² His performance of *Antigone* had sets painted by Picasso, costumes designed by Chanel, and music composed by Honegger, all popular contemporary artists.⁵³

In a performance so heavily inspired by modern movements, Cocteau synthesized and simplified the play so that it lasted only forty minutes. He transformed the dialogue into “verbal fencing” and the monologues into short, pointed phrases.⁵⁴ The most striking example of such tension is in part of the speech Creon gives when he learns that Antigone is responsible for burying Polynices:

Remember: the hardest spirits are the most easily broken. The hardest iron is the first to snap. A little curb calms an unruly horse. What pride she has, for a slave...a slave to duty. She deliberately insults me. She sets me at defiance and boasts about it. If I let her, she would be the man. Though I am brother to Jocasta, neither Antigone nor her sister shall escape their fate.⁵⁵

Cocteau instructed actors to speak quickly, and he made the Chorus a singular voice which, in the play’s initial run, he himself performed. Cocteau’s *Antigone* was a commercial success, and for its time period was performed a record number of times.⁵⁶

Cocteau redresses Sophocles' play to fit his own time period, and in doing so, maintains the tragic standard: "Cocteau pushes Sophocles to the limit, but in Sophocles' own direction...Sophocles rewritten by Cocteau is more Sophocles than the original."⁵⁷ Cocteau brands Antigone an anarchist in his adaption and in doing so he makes Creon more sympathetic. Antigone, although she is an anarchist, is also sympathetic due to her inherited suffering as she boldly states: "I am a child of incest. That is why I die."⁵⁸ Creon's sympathy is most apparent at the conclusion of the play. The structure of the play lends itself sympathetically towards Creon; it is quickly paced so that the audience may easily be caught up in the actions, and it is easier for them to sympathize with Creon and his need to make decisions in a rapidly changing environment. At the conclusion of Cocteau's play, Creon shows more remorse than in any other interpretation examined in this essay. He is frantic, begging and pleading for someone to allow him to change his mind. The death of Eurydice is also more striking in Cocteau; the chorus says that when she died, "She accused you [Creon] of the murder of Haemon and of Antigone."⁵⁹ This stark accusation brings on a revelation that causes Creon to call for his own death, and the play concludes with a line from the Chorus berating Creon for his disrespect of the gods. This effect of shortening the play heightens the drama as it adds frenzy and panic. Cocteau made the anxiety of the play palpable, and he managed to bring to life not just Greek

inspired tragedy, but Greek tragedy itself.

In 1948, poet and playwright Bertolt Brecht wrote *Antigone des Sophokles*, in which “Kreon conducts an imperialist campaign of plunder against Argos.”⁶⁰ Within this war story, Eteocles dies in a battle and Polynices is executed as a deserter. In Brecht’s telling, Creon loses many of his sympathetic qualities, and while his wife and son still die at the end of the play, Creon is such a negative character throughout the play that their deaths do not sufficiently lend to sympathetic suffering.

Brecht’s *Antigone des Sophokles* “was designed to enable an audience and readership to see and hear through these layers, in a dizzying historical abyss of references to tyranny and war.”⁶¹ Brecht’s play is consistent in tragedy in that it does not change lines from the Sophoclean play to a great degree. While the setting and circumstances differ, the overall arc of the play remains the same. Brecht’s play appealed greatly to the masses, and although it was ignored when it first premiered, it ended up touring for over twenty years and, as said by one of its later directors Judith Malina, “Wherever we played it, it seemed to become the symbol of the struggle of that time and place, in bleeding Ireland, in Franco’s Spain, in Poland a month before martial law was declared, clandestinely in Prague.”⁶² Brecht made “a binding production model” so that future productions of his *Antigones des Sophokles* would maintain the intent of his original.⁶³

Perhaps the most well-known of all interpretations

of *Antigone* is that of the playwright Jean Anouilh. Anouilh wrote his *Antigone* during World War II for a performance in Paris while the city was under German occupation. In order for allowance by the Nazi censors, Anouilh had to tread a narrow line in which Creon was portrayed as a sympathetic character with whom the audience could justify siding, but Anouilh also wanted to have an inspirational figure in Antigone, who the French in the audience may identify with.⁶⁴ Within both Anouilh and Brecht's adaptations, "The resistance symbolized in the central character of Sophocles' tragedy is not comparable, or immediately relatable to the French resistance to occupation, or to the German resistance to oppression."⁶⁵ Anouilh managed to write two equally sympathetic characters so that his play appealed to two audiences with fundamentally opposite views. However, in his writing Anouilh was able to "rely on a heightened sensitivity in his audience and a feeling of a collective religious kind of experience."⁶⁶

Within Anouilh's play, Creon's sympathy is shown through costume and stage presence that "reveals the tiredness of one who has gained power by force of circumstances and with some indolent contentedness" and as such connects him to the suffering of the House of Laius.⁶⁷ Antigone's suffering, on the other hand, is less inherent as the incest plot is traded for a romantic one. In Anouilh's version, it is Antigone's love for Haemon that heightens her tragedy. Anouilh wrote an original scene that "[reveals] the love between the couple and

the heroism of Antigone in renouncing this love, but it also heightens the pathos of her death, and prepares us for what is to happen later.”⁶⁸ Anouilh’s riddance of part of Antigone’s inherited suffering would have moved the tone of this play closer to propaganda rather than tragedy had Anouilh not replaced the suffering of incest with the suffering of a tragic love, which is palpable between Antigone and Haemon in Anouilh’s version.

The Anouilh version thematically differs from the Sophoclean version in one more major way. In Sophocles’ play, Antigone is successful in achieving her ultimate goal of death, and Creon is not successful. Yet, in Anouilh’s version, Creon also succeeds when, “at the apex of the great debate, he discloses to Antigone that there is no way of distinguishing between the remains of Étéocle and Polynice” and this fact “[jolts Antigone] out of her puerile dreams of heroism and political impact.”⁶⁹ This shift in who holds the moral power at the end of the play is reflective of the time period in which Anouilh wrote the play. In his need to appease the Nazi censors, he wrote an ending in which Creon has a degree of victory: Polynices and Eteocles’ bodies are indistinguishable and neither could be buried without the other.⁷⁰ However, the occurrences in Anouilh’s play are not done through fault or change in judgment of Antigone, but through circumstances outside of her control. Therefore, audience sympathy for Antigone is not lost in this adaptation.

Due to the modern nature of Anouilh’s *Antigone*,

when playwrights are entranced to write a Greek tragedy they often base their work upon Anouilh's play rather than Sophocles'. The specific appeals of Anouilh's *Antigone* are the relationship between Antigone and Haemon, the obvious multi-dimensionality of characters, and the avoidance of frequent and long monologues. By working from such a version, modern plays are able "to create a sometimes savagely satirical, tragic-comic tone and to expand, in a fashion endemic to the American stage and already inherent in Anouilh, on the now unheroic and openly flawed but personally committed characters' motivations."⁷¹ The open acknowledgement of Creon and Antigone's flaws within a modern perspective allows a playwright to experiment further within the boundaries that have been created. By working within such boundaries, it is harder for a playwright to favor one side over another and to create an implicit bias; thus, the play remains tragic, and a playwright may more easily experiment in his or her writing.

Antigone was the first Greek tragedy to be a successful "commercial venture" in the United States.⁷² Political plays in the United States were not popular until after 1950, and even once they began gaining traction, Anouilh's *Antigone* was still preferred to Sophocles'.⁷³ Greek tragedy in its original form was inaccessible to American audiences because Western audiences were used to "visual, not verbal action," whereas ancient tragedy, with its tendency for monologues and tradition for not having violence occur onstage, is focused on

verbal action.⁷⁴ However, by the 1970s Sophocles' *Antigone* began to gain prominence with American audiences as they grew more receptive to verbal action. Due to its provocative nature, *Antigone* is favored when "the national mood favored either political resistance or the expression of personal freedom."⁷⁵ While some performances of *Antigone* maintain the delicate balance of tragedy and propaganda as Sophocles' did, since the play is often produced as political art within a political climate, interpretations of Sophocles' version may not universally be called tragic.

A version of *Antigone* in which Creon is wholly unsympathetic was produced in 1984 in Northern Ireland. Titled *The Riot Act*, it depicted the struggles between Irish Catholics, British Protestants, and the British government. The play was intentionally written one-sided so that, according to playwright Tom Paulin, "Creon cannot be made to have a cause."⁷⁶ Paulin chose *Antigone* to be the source of his adaption likely due to the "[relation between] the ideas of martyrdom and mythical victimization, present in the texture of the Greek play and the struggle for political expression on the part of Republican prisoners."⁷⁷ In *The Riot Act*, "[Creon's] first great speech marks him out as a politician, a politician in the sense of a mistrusted, public figure, whose self-interest and love of power distorts his already fierce ideological position."⁷⁸ From the beginning of *The Riot Act*, the audience knows it is supposed to be on the side of Antigone, and the audience has no need

to question whether Antigone is in the right due to preconceived notions orchestrated by the writer. Since Paulin “[satirizes Creon] from the start, the drama of his conflict with Antigone is rendered impossible.”⁷⁹ The play is flat, disengaging, and fails as a tragedy. Within *The Riot Act*, Paulin “exploits the resonances of the classical text without clarifying them.”⁸⁰ An audience of such an interpretation would be more passive than an audience of Sophocles’ *Antigone*; the audience of the former merely observes, whereas the audience of the latter must engage with the play. Therefore, *The Riot Act* is propagandist due to its inability to evaluate Creon’s motives.

A more recent adaptation of *Antigone* is *Welcome to Thebes*, which was written by Moira Buffini and premiered in 2010 at the Royal National Theatre London. *Welcome to Thebes* depicts a newly formed democracy, reminiscent of the recent Liberian revolution and the country’s young democracy. Eurydice leads this new Theban democracy after Creon died in the war that killed Eteocles and Polynices.⁸¹ The use of Eurydice instead of Creon as the leader of Thebes and the issuer of the decree is notably done to give the play a feminist spin. Throughout the play Eurydice makes the same choices Creon does in the Sophoclean version. However, Eurydice spends more of her dialogue justifying and defending her choices. Although Eurydice was used to advance a certain agenda - as all characters are - she is written in the most sympathetic guise of any modern

interpretation so far examined; that is, as long as her character is compared to depictions of Creon rather than depictions of Eurydice.

In *Welcome to Thebes*, Polynices killed Eurydice's youngest son in the war and so, as a final act of brutality to remind the public about the horrors of war, Eurydice declares that Polynices' body should go unburied, saying, "Polynices' body has been found. / It will not be given burial / This warlord's corpse shall be our monument / To all the horrors we have witnessed and survived."⁸² Such a theme is common in literature where regimes fall; there is one last act of brutality, usually performed by the class previously oppressed. In *Welcome to Thebes* Antigone challenges this last act of brutality by burying her brother. Yet, Antigone is a minor role in this play, hinted at by the fact the title features not her but the city. In changing the title, Buffini directed a shift in focus away from Antigone and burial rites and towards Eurydice/Creon and violent transitions of power. While *Welcome to Thebes* is not entirely comparable to *Antigone*, it serves as an effective modern take on a Greek tragedy. In the time of Sophocles, burial rites and divinity versus humanity were major themes that caused dissension in the state. Buffini, in writing for a modern audience, focuses on modern themes such as feminism, the inception of democracies, and violent transfers of power. In this way, Buffini does not rewrite the themes of *Antigone* but instead reorients them.

At the conclusion of *Welcome to Thebes*, Antigone

does not kill herself; she marries Haemon. Yet they do not receive a happy ending, as the recently blinded Haemon believes he is marrying Ismene, which hints at future tension. The death that forces Eurydice to realize her wrongful decree is not Antigone's death but the death of Scud, a child soldier shot in an altercation at the end of the play. The purpose of Scud is unclear. It could be argued that Buffini wanted to show, in a stronger fashion than Sophocles, that one could do what is necessary and still live a happy life; thus, Antigone buries her brother and lives. However, Buffini does not eliminate the death of a character in the final act; she merely substitutes a different character. The ending lines of *Welcome to Thebes* also contradict such logic. Should the reason that Antigone lives be to show that rightful action against the state can result in a happy ending, then the play would conclude hopefully, directing its characters off to a better future. Rather, the epilogue of the play is a reminder that power imbalances will forever exist, and power transitions are never smooth. The ending dialogue occurs between two characters who do not exist in Sophocles' play: Megaera and Miletus - soldiers and allies of Scud who sided with Polynices in the war that brought Eurydice to power - are seeking refuge in Athens after leaving Thebes due to the turmoil that occurred there throughout the play. They are discussing the potentiality of their lives in Athens and whether they will be accepted due to their political status. Megaera concludes the play with the

lines: “They stand there in their marble palaces and try to keep us out / we’ll soak our rags in petrol / and we’ll burn their city down.”⁸³ Such lines are indicative of a continuation of the cycle of violence.

The discrepancy that prevents *Welcome to Thebes* from being considered fully tragic is that Antigone’s death is not the most impactful one to the audience and to the other characters. Such a choice, along with the cyclical ending to the play, presents a contradiction, for “Buffini wants to suggest that political change is possible. Yet when Tiresias reminds us that even Athens will one day be the victim of its own greed, you feel Buffini is still acknowledging the power of destiny.”⁸⁴ While *Welcome to Thebes* is indeed a tragedy in line with Greek tragic standards, its failure to address the contradictions found in its plot’s themes hinders the play’s message and prevents its effectiveness as an interpretation.

Anne Carson, a classicist, writer, and poet, who is well known for her translations that integrate ancient sources with updated references, wrote a postmodern adaption of *Antigone* called *Antigonick*, published in 2012. In Carson’s adaption, characters are aware of their counterparts in the original tragedy and reference figures such as Hegel, Brecht, and Beckett. In *Antigonick* Carson also created an original character: Nick, “a mute part [always onstage, he measures things].”⁸⁵ Nick and the title *Antigonick* represent the phrase “nick of time.” Timing is integral in *Antigone*, for it is in the space of time when Creon realizes his mistake and discovers Antigone

dead that the action of tragedy occurs, as Creon, moved by regret, is unable to change his actions. Carson uses Nick as a physical manifestation of the significance of timing and the significance of missed connections, which are found in both *Antigonick* and *Antigone*.

In Carson's play, Creon is sympathetic. In the conclusion of the play, he acknowledges his extremism and in this way is more successful than Antigone, who never recants her extremism but instead fulfills it. In Carson's book, Creon changes his mind and laments the deaths of Eurydice and Haemon, saying, "Take / Kreon away please take Kreon away. Where / Can / I look where can I turn. / Everything I touch / Goes / Wrong. An unbearable fate has laded itself / onto my head."⁸⁶ In this instance, Creon is not blaming his circumstances on fate but is rather saying he was given his circumstances by fate and, though he handled them poorly, he did not choose them. In this sense, Carson emphasizes one of the markers of tragedy but expands it so that it more obviously applies to Creon. This marker of tragedy is that a character was bound by fate and to a degree had no control over his or her actions. This inherent suffering is typically used in reference to Antigone being born of incestuous parentage and therefore being cursed, but it is often overlooked that Creon inherited the city of the House of Laius and therefore the curse also falls to him; settling him with a city that he is doomed to fail.

These concluding lines of Creon in Carson echo the concluding lines of Creon in Sophocles: "Take me

away, an idle man. O son, I killed you unknowingly and in vain you my wife, / where should I lean: for everywhere my hands are slanting but an intolerable fate is cast upon my head.”⁸⁷ The significant difference between Sophocles’ Greek and Carson’s interpretation lies in the last lines and the middle voice in the word εἰσήλατο (cast). In Greek, the middle voice signifies when the action of a verb is called reflexively onto the subject. By use of “εἰσάλλομαι” Creon is saying that he brought this fate onto himself, not the other way around. One commentary suggests translating “εἰσήλατο” as “drove,” which would strengthen his acceptance of his guilt in an English translation as it would emphasize Creon’s power in choosing his fate.⁸⁸ Creon takes on the responsibility of πότμος, which, in addition to fate, can be translated as personal fortune.⁸⁹ Translating πότμος as personal fortune rather than abstract fate makes Creon’s calling of it on himself more reflexive thereby continuing his trend of bringing the blame onto himself. This is in opposition to Carson, whose Creon says he himself was taken by fate; he did not take his fate as Sophocles’ Creon argues.

In *Antigonick*, Carson casts as the main character not Antigone, but Creon. Carson’s Antigone nearly seems too arrogant and too angry to qualify as a tragic character. She expresses neither regret nor desire for an easy resolution and appears self-aware enough to know her fate, including Creon’s change of mind, yet still sees no point to changing the story.⁹⁰ The tragedy

of *Antigonick* is not hard to find, as there is little plot change from the Sophoclean text to this one, for “while the poet and her illustrator stray from the expected narrative, the tragedy of the work isn’t lost on anyone.”⁹¹

Antigonón, un contingente épico is another recent stage adaptation that is described as “[a departure] from the myth of Sophocles’s *Antigone* to fuse with old and new figures from Cuban history.”⁹² However, the departure from *Antigone* is so far that it is hard to see what resemblance, if any, *Antigonón* was meant to have with the Sophoclean original. The play is told through a series of monologues performed by five people. The stage opens with two men and two women, likely representing *Antigone*, *Ismene*, *Polynices*, and *Eteocles*; however, no confirmation of this is ever given. Even further, the only other evidence that connects *Antigonón* to *Antigone* is that many of the names from Sophocles’ play find themselves in the monologues. In *Antigonón*, *Antigone* is not a character but rather the country, the *patria* that all the characters lament. *Antigone* as *patria* is accused of burying the characters, her people, and leaving them in the landscape of Cuba’s distress.⁹³ Such an idea is provocative and furthers the conflict found in the original Sophoclean play that posits the *πολις* against the individual; if *Antigone* is the country and the antagonist is also representative of the country, then *Creon* and *Antigone* are one, and their proclivities for extremism are more easily related.

This is a complex and engaging idea to explore,

but *Antigonón* does not delve deeply enough into the experiment. Rather, the references to *Antigone* are slight; only a person familiar with the Greek play will pick up on them. But if all references to *Antigone* were stripped from the play, the only empty space would be the title. *Antigonón, un contingente épico* was intended to confuse. Its purpose is to evoke questions in the audience; however, the attachment to *Antigone* is surface level at best and was done to connect the play to the political legacy of *Antigone*, even though *Antigonón* does not warrant such a connection as its themes do not relate to the themes of the Sophoclean tragedy.

Given that there is always an oppressed group within a society, it is likely that interpretations of *Antigone* will continue. Yet, tragedy is not symbolic of itself alone. It is an art form through which the audience is also examined; a tragic play's intention is to "expose the fragility of certainty, to nag away at the posturing and secret desires of all politics."⁹⁴ Tragedy challenges what is held to be true, and this challenge is lost when "directors give in to the desire to tell the audience some certainties of their own"; at this moment art becomes propaganda.⁹⁵ The danger of reinterpreting tragedy into propaganda is that the audience may be left unaware, thinking that they are witnessing a multifaceted conflict. The removal of the tragic structure previously discussed leaves behind a singular sole message unchallenged throughout the art form; that is, propaganda.

Victor Ehrenberg goes one step further than the

author's intention and analyzes the audience's reception, which itself may add new layers to a production or interpretation:

But once created, each great character lives his or her own life. It was, as it were, contained in the human being that sprang from the poet's genius; but then it went often enough beyond all the creator's conscious intentions. Thus, Antigone became the standard-bearer of human conscience against the cruelty and inhumanity of established authority, the "eternal revolutionary" or on the other hand, "the eternal heroine of the natural law."⁹⁶

To create such everlasting characters and to create such an everlasting hero was likely not the intention of Sophocles. Whether Sophocles would agree with the characterizations of his plots is unknown and, to a degree, does not matter. *Antigone* has been produced time and time again to allow audiences to process different events and yet "the moral fiber of Sophocles is just as unimportant as his political stance when it is a question of determining the 'usefulness' of Antigone's tragedy for a new production."⁹⁷ It is the tragic format of *Antigone* that is responsible for its classification as art, not the political motives of *Antigone's* author. As long as future manifestations of *Antigone* maintain this standard set by Greek tragedy, the setting, character, place, time, and to a degree even plot, may all be changed. However, a dedication to the tragic format is what will prevent interpretations of *Antigone* and her

characters from becoming propaganda.

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Troilus: Our (Pre-Christianity) Christian Hero

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*This article discusses the changes Chaucer made from Boccaccio's *Il Filostrato*, his source for Troilus and Criseyde. Specifically, this article focuses on Chaucer's addition of Christian elements and what the relationship is between these Christian themes and the pagan setting. Most importantly, Chaucer includes a clandestine marriage between Troilus and Criseyde. The inclusion of the sacrament of marriage allows Chaucer to treat their love as virtuous and, through his relationship with love, Troilus goes on a Christian journey. This article outlines different ways Christian elements are included, especially a clandestine marriage, and argues that Chaucer makes his story of Troilus and Criseyde an intrinsically Christian work.*

In *Troilus and Criseyde*, Chaucer presents his readers with a story that had been heard many times before: the tragic love story of Troilus and Criseyde. Set during the Trojan War, past authors have set the story up as another pagan tale. The most important example of this is Boccaccio's *Il Filostrato*. While Chaucer borrows much from the *Filostrato*, he makes a significant change, and goes beyond the creation of a simple pagan tale. Instead, he adds Christian elements to his story and has characters, especially Troilus, make references to God. For example, in Book One, Troilus says, "O God,

what fele I so?” and “now, thanked God.”¹ In both of these examples, Troilus also references the god of love (Cupid); but, for references to that specific deity he uses the title “God of Love.”² This “God,” whom he refers to in these two quotes, is made to sound different from the god of Love, and points towards a more Christian understanding of God.

These references to “God” could be understood as a pagan calling upon the deities of Troy, but that is not what is happening. They are actually references to the Christian God, though as pagan characters, Troilus and the others are incapable of fully grasping the concept of the Christian God. Chaucer is ambiguous about the connection between the pagan setting and these Christian themes, and how this connection relates to Troilus and Criseyde’s relationship. This ambiguity is also present in Chaucer’s portrayal of Troilus as a type of Christian hero, who experiences a journey of Christian faith, while existing in a firmly pagan world. The ability to see Christian themes as intrinsic to the story allows the reader to better understand the moral lesson Chaucer is trying to impart. In this essay, I will argue that *Troilus and Criseyde* is an intrinsically Christian work because Chaucer focuses on love as a cosmic force that can move the lovers towards virtue, and therefore, to the divine.

It is important to first recognize the inherent differences between Troilus and Criseyde, in terms of their ability to move towards virtue. While I will argue

that their relationship is inherently virtuous through a clandestine marriage and can lead them to the divine, Troilus is the only one to participate in that journey. The differences between their views of love are stark; Troilus “imagines, the deified Love as an omnipotent force that both guides individual experience and is intelligible through it...Criseyde concludes...that love (in its status as deity) is not only unpredictable or unverifiable, but ontologically unreal.”³ Troilus is the only one who experiences a Christian journey because he is the only one open to it. Though he scorns Love at the beginning of the story, once he is hit by the arrow, he quickly begins to explore the spiritual dimensions of love. In Book One, Troilus says to the god of Love, “Now youres is / My spirit.”⁴ Immediately, it is clear that Troilus is now devoted to both love and Love as a deity. This openness and devotion to Love, through his relationship with Criseyde, is what leads him to experience his form of the Christian God.

Criseyde, on the other hand, has no interest in the spiritual side of their relationship. Her desire for Troilus, and for love, is driven by her inherent pragmatism. A good example of this pragmatism arises in Book Two, when she argues with herself about whether or not she should succumb to Troilus’s love. She says to herself, “If I wolde outreliche his sighte flee, / Peraunter he myghte have me in dispit, / Thorough whicch I myghte stonde in worse plit.”⁵ Her worry is not whether she, herself, likes Troilus; instead she worries about what will happen to

her if she does not give in to his affections. Knowing how Troilus and Criseyde each respectively approach their relationship makes it clear why Troilus clings to their relationship even when he knows that it is over, and why it is so easy for Criseyde to move on to Diomedes. In addition, knowledge of the background of the relationship helps readers to see why Troilus is the only one who experiences a love that leads him to the divine.

Troilus's openness to engaging with the spiritual side of love can be seen through his hymn in Book Three, where he explores the theme of love as a cosmic force. This hymn is Chaucer's translation of Book Two, meter eight of Boethius's *Consolation of Philosophy*. Troilus begins by saying, "Love that of erthe and se hath governaunce."⁶ His declaration of Love, as this governing force, has a monotheistic tone and tells of a force that is all powerful. Troilus goes on to describe how Love keeps harmony in the world. Troilus tells about the sea "that greedy is to flowen," and how Love stops "his flodes that so fiersly they ne growen / To drenchen erthe and al for evere mo."⁷ Without Love, Troilus says, our world would be destroyed "and lost were al that Love halt now to-hepe."⁸ Troilus has already progressed past the pagan idea of Cupid, the god of Love; he now perceives Love as a universal force that governs over the entire world, keeping harmony in nature. Love's power transcends the power of all of Troilus's pagan gods.

Troilus is exactly in line with Boethius, who “unequivocally praises...the cosmic bond [love] that orders creation and sustains it in harmony.”⁹ Not only does Love bind nature in harmony, but Love also binds people. At the beginning of the hymn, Troilus makes a reference to himself and Criseyde when he says, “Love, that knetteth lawe of compaignie, / And couples doth in vertu for to dwelle, / Bynd this accord, that I have told and telle.”¹⁰ By referencing both the world and his own relationship in the same hymn, Troilus’s “petition aligns the love that maintains harmony in the cosmos with the love that binds Troilus and Criseyde.”¹¹ Here, Troilus is clearly praising Love as this singular universal being. His own love for Criseyde is the same Love that works to keep cosmic harmony. By stating the inherent relationship between Love and his love for Criseyde, Troilus “affirms the capacity of human love to lead the mind to higher insights rather than limiting it to earthly things.”¹² His love for Criseyde can lead him to understand this cosmic love. In turn, Love can lead him to the divine because it is God who controls Love. Troilus says, “God, that auctour is of kynde, / That with his bond of Love of his vertu liste / To cerclen hertes alle and faste bynde.”¹³ Here Troilus talks about an all-powerful being who is an “auctour,” which is similar to the Christian idea of God as Creator. This “auctour” God is the one who controls Love, and Love is described as a being created by Him. The two pagan gods who could be thought of as masters of Cupid are Venus and

Jove: Venus because she is Cupid's mother, and Jove because he is the leader of the Olympians. Neither of these gods fit Troilus's description of God, because they are not gods of creation; they themselves were created, like Love. Troilus's view of who God is no longer matches the pagan gods of Troy and, because of his relationship with Love, he begins to have a concept of the Christian God.

A common argument against this idea, however, comes from the statement, "Love, that knetteth lawe of compaignie, / And couples doth in vertu for to dwelle."¹⁴ The original text of the *Consolation of Philosophy*, upon which Chaucer based this hymn, states, "Love binds people too, in matrimony's sacred bonds where chaste lovers are met."¹⁵ Chaucer replaces Boethius's mention of marriage with the idea of couples dwelling in virtue. In Boethius's original text, a virtuous love through marriage is what connects lovers to the cosmic love and leads them to the divine. Since there is no mention of marriage in Chaucer's version, it could be argued that Troilus and Criseyde's love is not virtuous, and, therefore, does not participate in any sort of movement to the divine. In other words, Troilus's Christian journey is impossible and never occurs.

I would argue, however, that Chaucer includes marriage, not in the hymn, but in the consummation scene that precedes this hymn, which depicts a clandestine marriage between Troilus and Criseyde. Clandestine marriage occurs when a bride and groom

make vows to one another without any official ceremony or witnesses. This kind of marriage was possible in Chaucer's time because "according to both church and civil law, the mutual consent of those being married was the only essential factor for valid marriage."¹⁶ Despite its existence, neither the Church nor government officials liked clandestine marriage because the actual validity of the marriage was unclear, due to the lack of witnesses. The lingering question of the validity of the marriage led to problems as the couple had children or when one of the spouses died. Neither the Church nor the state were able to stop the practice for a long time, so clandestine marriages lived in a realm between being technically valid and not necessarily being socially accepted. What is most important is that Chaucer's audience would have been very familiar with the practice and would have been able to recognize Chaucer's "slight but significant changes in his account of the consummation... (that) bring the account closer to medieval marriage customs."¹⁷ In changing Boccaccio's version of the story, Chaucer took all of this into account and included hints of a clandestine marriage between Troilus and Criseyde.

The first point at which Chaucer introduces the idea of a clandestine marriage between Troilus and Criseyde is when they are both in Criseyde's room together, before the actual consummation scene. Troilus calls upon Imeneus, the goddess of marriage, and says, "I the grete, / For nevere man was to yow goddess holde / As I, which ye hand brought fro cares colde."¹⁸ It is

here that Troilus “specifies his intent as matrimonial.”¹⁹ Before calling on Imeneus, Troilus calls on Venus and Cupid. They are the most logical gods to invoke: Cupid is the one who shot the arrow, they are the actual gods of love, and they are the ones who have been referenced up to this point. There is no need to reference Imeneus, unless Troilus is treating this like a marriage. In which case, a pagan would most definitely call on the goddess of marriage for help. Towards the end of the night they exchange rings, but the narrator says, “I kan nought tellen no scripture.”²⁰ It was common for lovers to exchange tokens of their affection, but an exchange of rings points much more towards marriage. Also, the small detail where the narrator says he does not know what was written on the rings, hints at the possibility of them having personalized messages on the inside. These little details make their meeting sound much more like a marriage than a simple romantic night.

The last sign by which Chaucer indicates to his reader that Troilus and Criseyde have been married is in the use of the word “troth” or “trouthe.” In the beginning of the consummation scene, Troilus says to Criseyde, “This dar I seye, that trouthe and diligence, / That shal ye fynden in me al my lif.”²¹ To this Criseyde replies, “Welcome my knight, my pees, my suffisaunce!”²² Before Criseyde leaves in the morning, she says to Troilus, “Beth to me trewe, or ellis were it routhe, / For I am thyn, by God and by my trouthe.”²³ The use of these words implies a very serious commitment between Troilus

and Criseyde. Maguire puts it well when he says, “The word ‘trouthe’ is not limited to implications of marriage, but it was part of the usual marriage ceremony and is used frequently in medieval documents in this sense.”²⁴ Knowing this, the exchanges between Troilus and Criseyde sound very much like marriage vows, where the man and the woman each pledge to be true to the other. Of course, the marriage is never explicitly stated, but Chaucer gives us enough signs to point the reader to marriage. As Kelly puts it, “Given the honorable and sinless motives of Troilus and Criseyde, these words and actions could hardly have failed to indicate to Chaucer’s audience that they had entered upon a true marriage.”²⁵ All of these examples are changes Chaucer makes to the original story in *Il Filostrato*. This point emphasizes the idea that Chaucer makes a specific effort to tell his readers that Troilus and Criseyde have married each other.

Chaucer continues to hint about their marriage after the night on which it happened. For example, in Book Four when Troilus hears that he and Criseyde may be separated, he says, “For though in erthe ytwynned be we tweyne, / Yet in the feld of pite, out of peyne, / That highte Elios, shal we ben yfeere, / As Orpheus and Erudice, his fere.”²⁶ As Maguire says, he “compares their situation with that of Orpheus and Eurydice, types not of separated lovers, but rather of separated husband and wife.”²⁷ Chaucer has many different classical hero stories that he could draw on to make this comparison.

Yet, he chooses the story about the wife who is snatched away from her husband too soon after their marriage. If Troilus and Criseyde are really married, then the similarities are uncanny. Criseyde does not have the power to stop herself from being taken to Troy, the same way Eurydice could not stop herself from dying. Orpheus finds a way to bring her back, and Troilus also tries, but neither of them succeed. So, the husband and wife must wait for the afterlife to be together again. This specific reference is another way that Chaucer points his readers to the idea of a marriage between Troilus and Criseyde.

Many readers and critics question why, if it was essential to his story, Chaucer did not explicitly state the marriage between Troilus and Criseyde. The answer is because such a statement would alter the original plot too drastically. Had Chaucer explicitly stated that a marriage occurred between Troilus and Criseyde, he would have had to change the rest of the original story. If Troilus and Criseyde had been openly married, rather than married in a clandestine way, Criseyde would never have been sent to the Greeks. The story would no longer be the tragedy of Troilus and Criseyde. This is the same reason that Chaucer removes the word marriage from his translation of Boethius, in Troilus's hymn. If Chaucer explicitly stated that Troilus and Criseyde were married, it would be more difficult for him to continue with the original plot and ending. Chaucer wants us to see that Troilus and Criseyde have entered into a

sacramental marriage, but he still wants it to be possible for their marriage to be unknown by their society. So, though he cannot explicitly say it, treating Troilus and Criseyde as husband and wife, through a sacrament, allows Chaucer to establish their love as virtuous, and therefore something that can lead to the divine. For, marriage is “a conduit of divine grace... (and) loving another human being enables a form of participation in cosmic harmony and the true good that underlies it.”²⁸ Marriage has the importance of being the human reflection of God’s Trinitarian love, an earthly reflection of the divine. If Troilus and Criseyde’s love had not been ordered in this way, if they had not been married, their love would not have been virtuous, and would not have led Troilus to the divine.

Troilus’s journey to the divine only occurs because he is open to it. He first displays this openness after being hit with the arrow, but it is his hymn which represents his transition from pagan to Christian. The best example of Troilus as a type of Christian hero is in Book Four. Troilus wrestles with the problem of God’s foreknowledge, paralleling Boethius’s struggle in the *Consolation*. Pandarus finds Troilus in the temple, praying to the gods. Troilus says to him:

...forsight of divine purveyaunce
Hath seyn alwey me to forgon Criseyde,
Syn God seeth every thyng, out of doutaunce,
And hem disponyth, through his ordinaunce,
In hire merites sothly for to be,

As they shul comen by predestine.²⁹

He is wrestling with the idea that his relationship with Criseyde was destined, by God, to fail, so there is nothing for him to do about it. His words echo Boethius in the *Consolation* when he states, “I don’t see how God can have foreknowledge of everything and that there can still be free will.”³⁰ In the Christian world, the struggle between the knowledge of God’s omniscience and humanity’s free will is something that is very well known. But Troilus exists before the time of Christians, so the fact that he is having this internal struggle is remarkable, because he lives in this pagan world. Once again, this reference to God shows that he has a conception of the divine that goes well beyond the pagan deities. This passage is also another break from the *Filostrato*, pointing towards the fact that Chaucer has added new meaning. This internal struggle represents another integral move in Troilus’s Christian journey, and his journey does not end here.

Troilus, because he is a pagan, does not reach the proper Christian conclusion about how free will and foreknowledge can work together as one. Instead, he concludes that “so mot it come; and thus the bifallyng / of thyngs that ben wist bifore the tyde, / They mowe nat ben eschued on no syde.”³¹ Unlike the Christian understanding of free will, Troilus concludes that, because God had the foreknowledge of the events and how his relationship with Criseyde would end, there is no way to change it. Instead of wallowing in that

knowledge, he turns to the deity he knows and he prays:

Almyghty Jove in trone,
That woost of al thys thing the sothfastnesse,
Rewe on my sorwe: or do me deyen sone,
Or bring Crisseyde and me fro this destresse!³²

It could be argued that this turn from God and predestination to Jove is a turn from the Christian to the pagan. Instead, it is actually a continuation of the Christian journey, but within the confines of Troilus's pagan world and understanding. He calls his new idea of God, our Christian God, Jove, because he does not know what else to call him; the description and power of God do not change because he refers to Him under the name Jove. Instead, he gives Jove the characteristics of the Christian God, referring to him as "Almyghty" and describing him as all-knowing and all-powerful. Though he has just concluded that prayer can do no good, he still turns to God. Through this decision, he displays a very Christian faith.

Yet, because Troilus is pagan and has not experienced the coming of Christ, his journey towards understanding the truths of Christianity can only go so far. In the end of the story, he is killed by Achilles and briefly ascends to the eighth sphere. There, he "fully gan despise / This wrecched world, and held al vanite / To respect of the pleyn felicite / That is in heaven above."³³ He experiences the ultimate joy of Heaven, towards

which his virtuous love was leading him; however, because he is not a Christian, he cannot stay in Heaven and goes wherever “Mercurye sorted hym to dwelle.”³⁴ Troilus can make it only so far in his journey. His journey “cannot culminate in Christian love, however close it may sometimes come; it culminates instead in an uncompromising dismissal of worldly experience.”³⁵ It is from Troilus’s end point that Chaucer’s narrator takes over, and it is his voice that finishes the poem.

The narrator concludes the poem with instruction for the readers and a prayer. He tells the “Yonge, fresshe folks...In which that love up growth with youre age...loveth hymthe which that right for love / Upon a crois, oure soules for to beye, / First starf, and roos, and sit in heavene above.”³⁶ Like Troilus does at the end of the poem, Chaucer’s narrator asks his readers to turn away from the vanities of the earthly world. Instead, he tells them to focus their love on Christ, who is pure love; which is ultimately what Troilus was not able to do. He rejected the things of the world when he was given his glimpse of Heaven, but because Jesus had not come yet, he was unable to experience Christ’s saving love. In reality, “The real tragedy, Chaucer seems to suggest, is not how far the lovers (Troilus) are from right belief, but how close.”³⁷ This work is intrinsically Christian because, even though Troilus is a pagan, he makes a Christian journey of faith. When Troilus is forced to stop, the narrator takes over, leading the readers to the inevitable ending of Christ’s sacrificial love.

NOTES

1. Geoffrey Chaucer, *Troilus and Criseyde* (New York: W.W. Norton, 2006), I, 400, 517.
2. *Ibid.*, I, 421.
3. Jamie C. Fumo, "The Ends of Love: (Meta)physical Desire in Chaucer's *Troilus and Criseyde*," in *Sacred and Profane in Chaucer and Late Medieval Literature Essays in Honour of John V*, eds. Robert Epstein and Will Robins (Toronto: University of Toronto Press, 2014), 79.
4. Chaucer, *Troilus and Criseyde*, I, 422-23.
5. *Ibid.*, II, 710-712.
6. *Ibid.*, III, 1744.
7. *Ibid.*, III, 1758, 1760-61.
8. *Ibid.*, III, 1764.
9. Megan Murton, "Praying with Boethius in *Troilus and Criseyde*," *The Chaucer Review* 49, no. 3 (2015): 308, muse.jhu.edu/article/565068.
10. Chaucer, *Troilus and Criseyde*, III, 1748-50.
11. Murton, "Praying with Boethius," 309.
12. *Ibid.*, 313.
13. Chaucer, *Troilus and Criseyde*, III, 1765-67.
14. *Ibid.*, III, 1748-49.
15. Boethius, *The Consolation of Philosophy*, trans. David R. Slavitt (Cambridge, Mass: Harvard Univ. Press, 2010), II, 8, 18-20.
16. John Maguire, "The Clandestine Marriage of *Troilus and Criseyde*," *The Chaucer Review* 8, no. 4 (1974): 264.
17. *Ibid.*, 274.
18. Chaucer, *Troilus and Criseyde*, III, 1258-60.
19. Henry Ansgar Kelly, *Love and Marriage in the Age of Chaucer* (Eugene, Ore.: Wipf & Stock Publishers, 2004), 229.
20. Chaucer, *Troilus and Criseyde*, III, 1369.

21. Ibid., III, 1297-98.
22. Ibid., III, 1309.
23. Ibid., III, 1510-1511.
24. Maguire, "The Clandestine Marriage," 274.
25. Kelly, *Love and Marriage*, 230.
26. Chaucer, *Troilus and Criseyde*, IV, 788-91.
27. Maguire, "The Clandestine Marriage," 273.
28. Murton, "Praying with Boethius," 309.
29. Chaucer, *Troilus and Criseyde*, IV, 961-66.
30. Boethius, *The Consolation*, V, 151-52.
31. Chaucer, *Troilus and Criseyde*, IV, 1076-78.
32. Ibid., IV, 1079-82.
33. Ibid., V, 1816-19.
34. Ibid., V, 1827.
35. Murton, "Praying with Boethius," 319.
36. Chaucer, *Troilus and Criseyde*, V, 1835-36, 1842-44.
37. Fumo, "The Ends of Love," 83.



DIRECTOR'S LETTER

The First-Year Experience is the foundational liberal education core of the first-year curriculum at the Catholic University of America, bringing first-year students together in small Learning Communities for a shared, yearlong experience. Within Learning Communities, students take a sequence of four core classes in Philosophy, Theology, and English. The FYE also goes beyond the classroom with service learning activities, class-based excursions into Washington, D.C., an annual Speaker Series, and individualized advising and mentoring.

The FYE is inspired by the Catholic intellectual tradition and guided by the principles of liberal education. It prepares students not only for the challenges of citizenship and morality, but also for all of their subsequent academic work. In FYE classes, students learn to think more rigorously, write more persuasively, and read more perceptively, while confronting the great questions that have shaped human history and that continue to challenge us today. Tools and skills acquired in these classes become the foundation for work in the major and beyond.

The select student papers below, drawn directly from the core courses of the FYE, are prime examples of how our students are developing as self-motivated, insightful, and ethical individuals in the midst of their intellectual transition. We have selected two philosophy papers this year: one is an enterprising essay of research into several studies in psychology inspired by a student's careful reading of Alexis de Tocqueville's observations on democratic individualism in America. The other selection from a philosophy course is a careful and interesting comparative reading of two critical figures in our philosophical tradition. Both of these papers and the rhetorical analysis from the composition course are exemplary works reflecting the excellent work of our first-year students and to our dedicated instructors.

It is easy to see in these selections why the core of the First-Year Experience consists of philosophy, theology, and writing courses. The perspective developed by first-year students in these classes prepares them to continue the rest of their studies at CUA. The fundamental dialogue between faith and reason, as well as its profound cognitive implications, informs both the professional and the intellectual development of our students - regardless of their major or specialization.

We are all inheritors of a rich intellectual tradition shaped by the wisdom of the ancients and deepened by Catholicism. Since its founding, The Catholic University

of America has played an important role in cultivating this intellectual heritage. Our university is rare in its commitment to elucidating the relationship between faith and reason, for it is only through their dialogue that true understanding becomes possible.

I hope you will join us in celebrating these talented students, and moreover, our entire first-year class as they continue to explore the tradition of liberal arts education and develop their skills, abilities, and experience.

Sincerely,

Dr. Herbert Hartmann
Director

The Fulfillment Illusion: Does Democracy Generate Depression?

Genevieve Wietecha

PROMPT

Please write a 7-8 pages paper on a topic of your choice, considering its connections to Tocqueville's Democracy in America. The topic can be something we read or discussed in class, or something we did not read or discuss in class, but which you are interested in, as long as it lends itself to a philosophical presentation.

Is the American Dream an enemy to happiness? This “Dream,” the idea that everyone can be successful via hard work and determination, has been attracting new citizens to America’s shores for centuries. However, in spite of living in a nation that is built upon such promising ideals, things are looking bleak for many American citizens. Today, major depression is the leading disability affecting American adults between the ages of fifteen and forty-four.¹ The link between American democracy and depression may not be arbitrary. In fact, during the nineteenth century, French writer Alexis de Tocqueville foreshadowed this epidemic by proclaiming that democratic persons tend to suffer from individualism, a condition in which a person is more likely to pursue personal interests first and unity

with others second. As it has been proven that social connection is necessary for maintaining good mental health, the members of today's democracies could very well be making themselves depressed.

An Introduction to the World -Wide Depression Epidemic

To anyone who was born and raised to praise the "American Dream," it may seem counterintuitive that a "choose your own fate" mentality could actually be doing more harm than good. Nevertheless, numerous studies suggest an alternate truth. EverydayHealth.com claims that as of the past fifty years, not only has the number of Americans suffering from depression increased, but the *rate* at which this increase is happening is also on the rise.² This dilemma is not specific to the United States; other countries, including Great Britain, Canada, and Australia, are experiencing similar upsurges in anxiety and unhappiness.³ There is nothing to suggest that democratic freedom fosters only despair. It is certainly responsible for increasing the general well-being of many countries across the globe. However, in spite of precious freedom, countless members of Western civilization are becoming increasingly more discontented with their current states of life.

The Matter of Individualism and Its Effects on Society

The cause of individualism may appear to be ironic. In a nation where every man is equal to his contemporaries, it seems more likely that men would experience a greater sense of solidarity than a sense

of loneliness. Nevertheless, it was nineteenth-century thinker Alexis de Tocqueville who predicted the opposite effect: that democracy fosters self-absorption. Reflecting upon his visit to the United States in 1831, Tocqueville stated that democracy encourages not community, but rather “a reflective and tranquil sentiment that disposes each citizen to cut himself off from the mass of his fellow men and withdraw into the circle of family and friends, so that, having created a little society for his own use, he gladly leaves the larger society to take care of itself.”⁴ According to Tocqueville, when a person does not have a predestined obligation to the greater society, he ceases to feel that he is responsible for the well-being of the society at large, much like the son of a magistrate will be responsible for administering the law when he succeeds his father. Sensing no direct linkage between his own actions and the welfare of others, he is more likely to withdraw from outward involvement and become more invested in personal affairs. Consequently, individualism weakens the bonds between men and women. As social creatures, when people are lacking in adequate social connection, their mental prosperity also declines. In fact, while Tocqueville sees democracy as being broken down into “little societies” comprised of intimate friends and family, the reality is that immediate familial ties might be damaged as well. In aristocracies, people are attached to their predecessors by a common destiny – a man follows in the footsteps of his ancestors and anticipates that his children will do likewise – but

there is no such linkage among the generations in a democracy. In Tocqueville's words, "people easily forget those who went before them and have no idea of those who will come after."⁵ Since no one is obliged to fulfill the roles of their parents, there is little to keep them from drifting apart from their kin. Therefore, if one holds his personal aspirations in higher regard than the people he comes from, even his own family and friends might be alienated from his "bubble" of personal interests. As a result, the people in democracies "owe nothing to anyone, and in a sense expect nothing from anyone." Inspired with the belief that anything is possible, they can focus their attention on whatever aspiration their heart desires, while neglecting connection to neighbors, friends, and family.⁶

According to a plethora of studies, the individualism described by Tocqueville has permeated the norms of democratic society. One leading authority on the health effects of loneliness, John Cacioppo, claimed that democratic citizens tend to lack concern for one another, saying "[in democracy] there's more division in society, more segmentation; there's less identity with a national or global persona, but rather on the family or the individual."⁷ Furthermore, more members of democratic societies are living alone than ever before. According to the U.S. Census Bureau, more than 26 million Americans live by themselves, a number that is expected to increase further over the next ten years. As stated by two reporters on the issue,

Bruce Grierson and Kalle Lasn, “it’s doubtful that any society in human history has experienced this kind of fundamental isolation.”⁸

Individualism, Isolation and Independence

It has thus been explained why the American Dream causes people to lead more isolated lives, but whether or not this kind of solitude prohibits happiness remains to be discussed. Indeed, Tocqueville indicates that even though people use their work and achievements as the means for well-rounded lives, these components do not satisfy all of their innate desires. In Part II, Chapter 13 of *Democracy in America*, Tocqueville writes, “in America I saw the freest, most enlightened men living in the happiest circumstances to be found anywhere in the world, yet it seemed to me that their features were habitually veiled by a sort of cloud. They struck me as grave and almost sad even in their pleasures.”⁹ The abundant and advantageous lifestyle does not appear to be enough for even the most accomplished persons. Instead, Americans seem always to be seeking greater and grander things, and “the taste for material gratifications... impels [them] again and again to change plans and places.”¹⁰ Furthermore, when Americans (as well as other democratic peoples across the world) attain the next level of luxury and achievement, they find themselves still unfulfilled. Nevertheless, believing that prosperity will eventually bring them contentment, they continue to press on further, never quite finding peace, yet never stopping to consider whether or not

their pursuit will ever be fruitful.

It would thus appear that the members of democratic societies are misled. The fortune and status that the American Dream promotes do not fulfill their promises, and it is not difficult to see why the pursuit of such empty things leaves many people disheartened. However, if not prosperity, what then are people lacking that is making them so restless? The answer may be no more than human connection. Studies are demonstrating again and again that people are reporting a greater sense of loneliness, even among those who do not suffer from clinical depression. In one survey conducted in Vancouver, researchers found that fully a third of the population between the ages of 25 and 34 admitted feeling “alone more than they would like.”¹¹ Another study conducted by Northwestern University in Chicago reported that people from individualistic cultures are “more likely to value uniqueness over harmony, expression over agreement, and to define themselves as unique or different from the group,” yet “nations with greater individualism showed higher prevalence of anxiety and depression.”¹² It is apparent that as a whole, democratic people simply are not finding the social unity that they require to thrive. This lack of connection can take a toll on mental health, as it is proven that humans rely on the active presence of others to be happy. In one interview, neurologist Matthew Lieberman says that “across many studies of mammals, from the smallest rodents all the way to us humans, the data

suggests that we are profoundly shaped by our social environment and that we suffer greatly when our social bonds are threatened or severed.”¹³ Connection is an instinctual need that humans depend upon, but a need that is constantly being undermined by the attractions of “individuality.” Thus a vicious cycle ensues: as long as people appreciate the notion that they are self-reliant, they will tend to be more isolated; however, as long as people live in isolation, they will not become genuinely happy.

Society-Wide Obstructions to Happiness

Individualism, a byproduct of the American Dream, is so entrenched in contemporary democratic ideology that people fall into its pitfalls constantly, oblivious to the fact that they are prolonging an issue. Everything, from America’s workaholic culture, to isolating pastimes such as TV show binge watching, to the convenience of communicating via smart technology, augments Americans’ lack of connection. Even physical towns and neighborhoods are designed upon the preconceived notion that incoming settlers will “mind their own business.” As explained by neurologist John Cacioppo, “The way we’ve built cities – suburbs with no central meeting place, prioritizing the car and the condo tower, passing restrictive zoning bylaws – has made the problem worse.”¹⁴ Therefore, people are living in towns and cities where social interaction is physically discouraged – not because they *want* to be alone, but because relocating to a more socially constructive environment is not a

priority. In addition, technological enticements such as videogames, the Internet, and television soak up the free time that might have been spent with others, distracting people with activity that would otherwise be empty silence. Compounded with the influence of social media, people are being diverted from physical company by the prospect of connecting to others via the touch of a button – a button which, unfortunately, hardly replaces face-to-face communication.

Nonetheless, it would seem that as the world becomes more aware of this isolation crisis and its effects on society, there are ways to counteract the problem. By professing that Americans' sense of individualism causes restlessness, Tocqueville also recognizes that the best way to combat depression is to acknowledge that true happiness encompasses more than one's own self. The long-held American Dream, which promotes a drive for prosperity, cannot be idealized as the one thing that will make people happy. Certainly prosperity bestows its own advantages, but when people place ambition at the center of their lives, they sink into a state of restlessness in which nothing satisfies their thirst for more. Rather, people must recognize that while some level of independence can be beneficial, they need to cultivate a desire to grow in love and support of one another. The evidence for this is concrete. For instance, in one study evaluating the factors that enable longevity in centenarians, it was found that "social resources" accounted for their more than one-third of self-rated

physical health and more than one-half of self-rated mental health.¹⁵ Indeed, the need for widespread connection must be fulfilled, and it must be fulfilled consciously. Today, democratic society is not designed to promote interdependence among persons. However, if more and more people strive to develop deeper bonds with one another, as well as concern for the greater society as a whole, it is possible that the depression epidemic might finally meet its end.

Nearly 200 years later, the intuition of Alexis de Tocqueville is so acute that even today it offers valuable insight into the needs of democratic society. Through Tocqueville, democratic peoples can recognize why depression has become so widespread and how it might be resolved. It is clear that people depend on each other for their own survival, more than the concept of individuality tends to promote. However, if Americans and other participants of the free world can learn to be interdependent, to venture outside their bubbles of “tranquility” and realize that the true “American Dream” involves communion with others, the world has the potential to become a happier place.

NOTES

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On Aristotle and Rousseau

Kathleen Doman

NOTE FROM THE AUTHOR

This essay began as a submission for the Final Paper assignment in my Philosophy 201 class, and was first completed at the end of the fall of my freshman year. The original paper discussed the relationship between justice and friendship in Aristotle. When I got it back, I noticed that my instructor had left some comments on the last page, in which he offered to work with me to develop the paper further. The scope of the paper evolved into a broad comparison of Aristotle and Rousseau. I chose to expand it in this way because the shocking differences between their modes of thought fascinated me.

The views of classical and modern philosophy differ on several fundamental topics, and this is inevitable for two central reasons. First, the world has evolved tremendously since it began and it is constantly changing. Second, human beings engage with the world in an incredible variety of ways, contributing to the ever-expanding sphere of opinions among men. The stark contrast between the two schools of thought is supremely evident in the opinions of the classical Greek philosopher Aristotle and the modern philosopher Jean-Jacques Rousseau. Two of Aristotle's works, namely his *Nicomachean Ethics* and *Politics*, discuss the issues relating to our present inquiry. Rousseau's opinions

on these matters will come solely from his *Discourse on the Origin of Inequality*. I will now venture to explore the relationship between compassion and reason, what constitutes the height of happiness, the role that virtue plays in human nature, and the concept of human interdependence.

Compassion and Reason

The relationship between compassion and reason is an important point of deviation for Aristotle and Rousseau. While compassion and reason are naturally at war with each other for Rousseau, Aristotle believes the two qualities to be complementary and even necessary to one another. Rousseau considers the artificial development of reason to be precisely what smothers man's natural ability to express compassion. He writes in his *Discourse*: "Reason engenders egocentrism, and reflection strengthens it. Reason...turns man in upon himself."¹ Rousseau believes that any form of inward contemplation slowly weakens one's natural tendency to have pity on the suffering of his fellow man. He emphasizes this point and mocks the philosopher when he writes that philosophy itself is what moves a man to "say in secret, at the sight of a suffering man, 'Perish if you will; I am safe and sound.' No longer can anything but danger to the entire society trouble the tranquil slumber of the philosopher and yank him from his bed."² Rousseau's message here is well-defined: the acquisition and use of reason enables complacency towards human suffering. He says, "Although it might be appropriate

for Socrates and minds of his stature to acquire virtue through reason, the human race would long ago have ceased to exist, if its preservation had depended solely on the reasoning of its members.”³ In this text, Rousseau reveals his lack of faith in the goodness of humanity and in the goodness of its potential for reason. Rousseau makes this claim because he sincerely believes that the long-term effect of reason is the deterioration of the human race. When humans develop reason, according to Rousseau, they are more likely to justify not helping their neighbor in his suffering and even likelier to justify *hurting* him in order to benefit themselves.

Aristotle, on the other hand, believes that reason is natural to humans and that it underlies our capacity for compassion. His opinions also differ from those of Rousseau because he believes that justice is intimately connected to reason and that it harmonizes our social interactions. In situations of legal justice, Aristotle believes that compassion can sometimes mean treating unclear situations with a degree of impartiality. He says, “It is equitable to pardon human weaknesses, and to look, not to the law but to the legislator; not to the letter of the law but to the intention of the legislator; not to the action itself, but to the moral purpose; not to the part, but to the whole; not to what a man is now, but to what he has been.”⁴ It is important to note that this does not mean to overlook true wrongdoing and let wrongdoers go without punishment and correction. But it does suggest that Aristotle’s definition of compassion includes equity

in difficult situations, which can sometimes mean taking a step back from the specific details of a situation and looking at the best thing to do through the lens of the big picture. The ancient Greek philosopher stands by his classical principle that a man's ability to reason is necessary for compassion and heightens his ability to be a friend to his neighbor. For Aristotle, this ability to reason is the natural activity and good of the soul. He says, "The human function is activity of the soul in accord with reason or requiring reason."⁵ It seems difficult to bring up the "activity of the soul" and speak of its perfection without defining what that is and what it means. Aristotle has no problem aiding us here. He clarifies: "Now each function is completed well by being completed in accord with the virtue proper [to that kind of thing]. And so the human good proves to be activity of the soul in accord with virtue."⁶ In this text, Aristotle elucidates his characteristic belief that man is perfected through the development and use of compassion, reason, and justice. Since developing reason is natural to, and therefore proper to, the function of a human being, it follows for Aristotle that doing so would enable an enhanced propensity for virtue. In regards to justice, Aristotle believes that developing the virtue of justice helps perfect the relationships humans have with other people. According to Aristotle, "Justice is the only virtue that seems to be another person's good, because it is related to another; for it does what benefits another."⁷ In this text, he presents the idea that having the virtue

of justice becomes another person's good, as justice is noble and necessary for a harmonious society. While it is perfect for Aristotle, the introduction of justice adds yet another tension with Rousseau's opinions regarding compassion and reason. The simple contrast begging for recognition here is that while Aristotle believes that reason facilitates a virtuous life, Rousseau thinks reason suffocates it.

The Height of Happiness

Aristotle and Rousseau also have different conceptions about the height of human happiness. Aristotle believes that the peak of happiness is reached through a life lived in accord with virtue: ultimately, a theoretical life that involves contemplation of the divine. Virtuous friendship also helps to constitute the apex of human happiness for Aristotle. This view of happiness is central to the foundation of human life for classical philosophy. Aristotle writes in his *Nicomachean Ethics* that "Happiness, then, is found ... in the activities in accord with virtue."⁸ He believes that the best way for humans to become happy is by practicing virtue and developing a good character. As was previously stated, the Greek philosopher believes that contemplation and study, especially of the divine, is the other part of what it takes to reach the summit of happiness. He says:

For what is proper to each thing's nature is supremely best and most pleasant for it; and hence for a human being the life in accord with understanding will be supremely best and most

pleasant, if understanding, more than anything else, is the human being. This life, then, will also be happiest.⁹

Study, understanding, and contemplation of the divine are all activities for Aristotle that, if done in earnest, have the powerful potential to bring man to perfection, and therefore, to the height of his happiness.

This view of human happiness is completely dissimilar to Rousseau. To begin with, Rousseau believes happiness to be a simpler concept, synonymous with the absence of suffering. He writes, “Is desiring that someone not suffer anything but desiring that he be happy?”¹⁰ Rousseau and Aristotle’s contrasting ideas of happiness can be more easily understood using a comparison of light and darkness. Is light its own source and therefore a reality entirely separate from darkness, or is light merely the absence of darkness? Under this metaphor, Rousseau imagines happiness to be like the definition of light that says it is simply the absence of darkness. Aristotle would disagree and argue that light (happiness) is a positive state in and of itself. Happiness, for Aristotle, is a higher state of mind and being that can be achieved from a level of “neutrality,” if you will. This is contrary to Rousseau, who believes that happiness is just the absence of suffering. After realizing this distinction, it becomes clear that a greater level of intentionality is required to achieve Aristotle’s happiness, while the task of achieving happiness for Rousseau is much simpler and basic, because it means

only to avoid pain. Man need not do anything except continue in the state of nature, according to Rousseau, to remain happy.

To fully grasp Rousseau's concept of happiness, it is helpful to contrast it with that of Aristotle. Rousseau modifies two pieces of the classical concept of happiness for his own philosophy. As I have previously stated, one of Aristotle's criteria for human happiness is virtue; Rousseau replaces Aristotle's virtue with a notion of pity or compassion. It is important to note here that Rousseau wants compassion between men, but does not want man to live "outside of himself" or, in other words, to live for the opinions of others. Also, Rousseau will replace Aristotle's contemplation of the divine with a more primitive goal: fulfillment of basic needs without dependency. Evidence of this is found as Rousseau writes, "With no need for his fellow men, and correspondingly with no desire to do them harm, ... savage man, subject to few passions and self-sufficient, had only the sentiments and enlightenment appropriate to that state; he felt only his true needs."¹¹ Rousseau considers the state of nature to be the best possible state for man to be in, partly because it is the one which is least likely to incur suffering — i.e., loss of happiness. He even states, "Now I would very much like someone to explain to me what kind of misery can there be for a free being whose heart is at peace and whose body is in good health?"¹² He refers in this text to the life of the savage man who, unclouded by superfluous

desires, unnecessary reason, and human dependency, has reached the fullness of his potential for happiness. Therefore, the ability to fulfill one's needs without relying on others to do so is one of the pillars of human happiness for Rousseau. It is important to note that for Rousseau, man is happiest in the state of nature when he has just enough technology to satisfy his basic needs without depending on others; this pinnacle occurs on the way to the state of civil society – although the happy man remains in the state of nature. It is also incomprehensible for Rousseau that contemplation be one of the requirements for happiness, because contemplation requires reason, and reason, according to Rousseau, is not natural to man. Rousseau writes, “We seek to know only because we desire to find enjoyment; and it is impossible to conceive why someone who had neither desires nor fears would go to the bother of reasoning.”¹³ Rousseau's message in this text is that savage man does not think because it is natural to him or because it will make him happy; rather, he thinks because his desires are limited, and understanding can help him satisfy some of them. To put it simply, Aristotle sees virtue, friendship, and contemplation as the height of happiness, while for Rousseau, it is pity and the fulfillment of primitive needs.

The Role of Virtue in Human Nature

A deeper dialogue now ensues about the nature of human beings and the place that virtue has in that discussion. Our two philosophers quarrel over whether

or not virtue should play a role in human existence. An interesting contrast between Aristotle and Rousseau presents itself when this issue is brought to light. For Aristotle, virtue finds its perfection in the friendship of two good people, and this encompasses justice. Robert Sokolowski says, “Friendship ... crowns all the moral virtues, including justice; it surpasses justice and brings it to perfection.”¹⁴ This idea is so close to the heart of Aristotle’s philosophy that he even discusses it in *The Politics*. He writes:

The life which is best for men, both separately, as individuals, and in the mass, as states, is the life which has virtue sufficiently supported by material resources to facilitate participation in the actions that virtue calls for. As for objectors, if there is anyone who does not believe what has been said, we must pass them by for the purposes of our present inquiry and deal with them on some future occasion.¹⁵

Jean-Jacques Rousseau is exactly the kind of adversary to which Aristotle refers in this excerpt, and it is our job, as readers and fellow philosophers, to “deal with him” as the late Greek philosopher has requested. Aristotle’s statement towards the end of *The Politics* is deeply oppositional to the opinions of Rousseau, who wishes to substitute any idea of virtue with the concept of pity. Rousseau contends, “Pity is what, in the state of nature, takes the place of laws, mores, and virtues, with the advantage that no one is tempted to disobey

its sweet voice.”¹⁶ For Rousseau, the natural tendency of the savage man to pity his neighbor’s suffering is enough to maintain a harmony between men in the state of nature, and hence there is no need for the development of virtue. Rather, he argues that in the state of nature, pity *replaces* all virtues, and that this is acceptable because pity embodies everything that the other virtues aim to accomplish. For Aristotle, a different story is told. Compassion and other loving emotions for another person are not merely a baseline on which all of humanity must function, like pity is for Rousseau. Rather, they are positive forces and are desirable in and of themselves.

A more meticulous reading of the *Discourse* would even yield the suggestion that all virtues are merely extended pity. Rousseau provides a relevant example of this as he says, “Benevolence and even friendship are, properly understood, the products of a constant pity fixed on a particular object.”¹⁷ Not only does Rousseau believe that virtue is inessential for a good human life, but he claims that the virtue he *does* see in the state of civil society does not even deserve that name, because it is only concentrated pity. Another reason why Rousseau thinks that a propensity for pity towards others should replace virtue is because by nature, the savage man has no foresight. He lives only in the present moment and is incapable of premeditating any action. Rousseau describes this condition when he writes:

His soul, agitated by nothing, is given over to the single feeling of his own present existence, without any idea of the future, however near it may be, and his projects, as limited as his views, hardly extend to the end of the day. ... In the morning he sells his bed of cotton and in the evening he returns in tears to buy it back, for want of having foreseen that he would need it that night.¹⁸

This statement creates a tension with the acquisition of virtue for yet another reason. To form good character, for Aristotle, it is necessary to first form good habits. Aristotle reminds us, “A state of character results from the repetition of similar activities.”¹⁹ In order to form good habits, one must be able to plan ahead and act with a purpose outside of the present moment. The only method that Rousseau’s savage man can use to stay in the state of nature is to circumvent the development of reason and act only by instinct. If he does this, it is nearly impossible to develop virtue, because the things he would have to do to develop virtue would take him out of his natural state. This leaves the reader to discover that, regardless of Rousseau’s opinion concerning it, virtue’s development is contrary to the nature of his argument. This contradiction will be clear when the issue of dependency is discussed in the next section.

Dependence and Independence

Dependency has been mentioned a few times for all of the topics I have discussed thus far and it is a central theme for both thinkers, albeit for very different

reasons. The issue of independence as opposed to dependence is another point of divergence for the opinions of Aristotle and Rousseau. As I have previously determined, Aristotle believes that to be happy in this life, man must follow his nature when it calls him to be virtuous and participate in virtuous friendships. He refrains from calling this a dependence, maybe because of the negative connotation that comes with that word, but nevertheless it remains that for Aristotle, humans need each other. The terms “dependence” and “independence” are specific to Rousseau’s philosophy. Although I compare Aristotle’s opinions on the topic to those of Rousseau, dependency is not an operative word in Aristotle’s thought. Rather, acting as social and political beings perfects human nature for Aristotle, and that is the only sense in which Aristotle believes that man is truly dependent. I will use the word “dependence” when referring to human relationships for Aristotle, but it is important to remember that I only do so to make the contrast to Rousseau more apparent. Aristotle confirms his belief that humans need community to be virtuous when he writes, “The blessed person, therefore, will need virtuous friends. ... Further, good people’s life together allows the cultivation of virtue.”²⁰ By endorsing this idea, Aristotle highlights his belief that human beings are by nature dependent on one another. The fact that he mentions friendship’s ability to foster virtue also reveals his opinion that this dependence is a good thing. Sokolowski emphasizes this

point when he writes that according to Aristotle, “Both virtues (justice and friendship) are necessary for a good human life.”²¹ Rousseau, staying true to his view of human nature, rejects this reliance in favor of the belief that man is radically independent, and that this radical independence is for the best. The following excerpt showcases the drastic extent to which Rousseau’s savage man is independent:

Males and females came together fortuitously as a result of chance encounters, occasion, and desire, without there being any great need for words to express what they had to say to one another. They left one another with the same nonchalance. The mother at first nursed her children for her own need; then, with habit having endeared them to her, she later nourished them for their own need. Once they had the strength to look for their food, they did not hesitate to leave the mother herself.²²

The irreverence with which Rousseau approaches human sexuality and familial relationships speaks volumes about his opinions on the assumed solitude and independence of the hypothetical savage man. Rousseau does not even acknowledge some of the most intimate forms of human relationships that exist. This realization leads his audience to the inevitable conclusion: Rousseau rejects the idea that natural man’s reliance on *anything*, whether it is virtue or friendship, is a benefit.

In conclusion, I have seen that Aristotle and

Rousseau's moral philosophies differ greatly. Their moral theories differ because they have different understandings of the nature of human beings. With contradicting definitions of human nature, they must also disagree about what is good for humans during their life. There are specific controversial topics for Rousseau and Aristotle that are discussed in this paper: compassion and reason, the height of human happiness, the role of virtue in human nature, and dependence and independence. Since Aristotle's philosophy is based on the way things naturally manifest themselves to us, while Rousseau imagines a "state of nature" that is contrary to what humans naturally experience, I tend to agree more with Aristotle's philosophy on all the subjects discussed. Some people in our culture today may find his view of the world to be naive or ignorant of the evils found in human nature, but I hold fast to Aristotle's beliefs because I think that they are objectively true, as well as beautifully hopeful.

NOTES

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3. *Ibid.*, 38.
4. Aristotle, *Rhetoric* 1374b17.
5. Aristotle, *Nicomachean Ethics* 1098a9-10.
6. *Ibid.* 1098a16-18.
7. *Ibid.* 1130a4-6.
8. *Ibid.* 1177a9-10.
9. *Ibid.* 1178a6-10.
10. Rousseau, *Origin of Inequality*, 37.
11. *Ibid.*, 41.
12. *Ibid.*, 34.
13. *Ibid.*, 26.
14. Robert Sokolowski, "Friendship and Moral Action in Aristotle," *Journal of Value Inquiry* 35, no. 3 (2001): 355.
15. Aristotle, *Politics* 1323b40-1324a4.
16. Rousseau, *Origin of Inequality*, 38.
17. *Ibid.*, 37.
18. *Ibid.*, 27.
19. Aristot. *Ethics* 1103b21-22.
20. *Ibid.* 1170a39-41.
21. Sokolowski, "Friendship and Moral Action," 358.
22. Rousseau, *Origin of Inequality*, 29-30.

The Tragedy that Befell Rome

Joel Desmarais

PROMPT

This research paper asks you to use all the rhetorical tools discussed this semester in order to compose an excellent piece of rhetoric about an excellent piece of rhetoric. Your research paper will include close, careful analysis of that text as a cornerstone, but should then go beyond it to ask a bigger question about why and how rhetoric is effective or ineffective in particular rhetorical situations. To that end, your research paper will need to consider multiple texts or contexts that are tied together either by topic, time period, or author, and construct an argument about how to understand your speech and the context you've decided to investigate. Thus, your thesis statement should make an argument about the rhetoric of the texts you are studying and should employ vocabulary learned in this course.

At its core, *Julius Caesar* is a tragedy because, although the assassins succeed in killing Caesar, they fail to extinguish the monarchical spirit in Rome. Cassius and Brutus die before they can see the Republic they fought so hard to protect be swept away in favor of tyranny after Augustus and Antony seize control. Amidst all the gloom, it is hard to see the message Shakespeare is trying to impart to the reader, however; the play becomes clearer through study of the characters' rhetoric. The play's pivotal moments

are delivered in grand speeches, and by looking at the effectiveness of Marc Antony's funeral oration, it is evident that Shakespeare is making an observation about the exploitative nature of rhetoric. Furthermore, the unique structure of the play also highlights how stirring rhetoric can undo even the best laid plans. However, these observations have larger implications, and Shakespeare appears to be questioning our ability to truly know another's intentions.

The Importance of Language

Before analyzing *Julius Caesar*, it is important to understand the attitude that Shakespeare has towards rhetoric. At the outset of the Renaissance, writers and philosophers were confident in the efficacy of rhetoric: its ability to communicate reality. Renaissance humanists sought perfection through self-improvement and education. Indeed, Hanna Gray writes, "The Renaissance humanists believed that education should equip a man to lead a good life, and that therefore the function of knowledge was not merely to demonstrate the truth of given precepts, but to impel people toward their acceptance and application."¹ Due to their faith in rhetoric, the way that they would impart truth would be through logical and convincing argumentation. Again, Gray affirms this point when she writes, "They believed also that men could be moulded most effectively, and perhaps only, through the art of eloquence, which endowed the precept with life."² This view of rhetoric as

a means to enable men to study the truth enjoyably is found in the writing of the Renaissance as well. Thomas Wilson supports this perspective when he writes in the introduction to one of his textbooks, “*Logike by Arte*, settes forthe the truthe/ And doeth tell what is vaine/ *Rhetorike* at large paintes well the cause/ And makes that seem right gaie.”³ This passage demonstrates firm trust in rhetoric and its ability to complement logic and truth and reflects the larger attitude that Renaissance humanists had towards its use.

Breaking with the Renaissance humanist thinkers, Shakespeare questions these assumptions in *Julius Caesar*. Gayle Greene writes:

An understanding of language in *Julius Caesar* begins from a consideration of its epistemological meaning; and both must be seen in relation to the skepticism and nominalism of the late Renaissance... Shakespeare intentionally obscured the political issues in order to emphasize the problems of knowledge and fallibility of judgment.⁴

In order to make a statement about rhetoric’s reliability, Shakespeare centers *Julius Caesar* around rhetoricians and the effect their words have on others. It is commonly understood that the style of *Julius Caesar* makes it unique among Shakespeare’s works. Greene echoes many of her fellow scholars when she points out, “The markedly rhetorical style has often been noted.”⁵

Shakespeare writes *Julius Caesar* this way because much of the dialogue is delivered in epic speeches by talented orators. This peculiar method of dialogue goes far beyond stylistic technique, however, as Greene notes: “Rhetoric in this play is a theme as well as a style.... it is integral to characterization, culture, and to the central political and epistemological concerns.”⁶ Framing the play’s events and the interactions of characters through public addresses enables Shakespeare to make his arguments about rhetoric. Once again, Greene draws this comparison: “In Shakespeare’s depiction of Rome as a society of skilled speakers whose rhetorical expertise masks moral and political concerns is implied a criticism of rhetoric and of language itself which is central to the play’s tragic vision.”⁷ The play’s principal rhetoricians, Brutus and Antony, drive much of the action through their words. Antony, as the ambitious, scheming politician and brilliant, albeit amoral, orator, is a foil to Brutus, who is a noble and loyal Roman citizen. The conflict between the two men comes to a climax in the immediate aftermath of Caesar’s assassination, when, in a pair of brilliant speeches, the two vie for the favor of the crowd and control of Rome’s destiny. Shakespeare uses the speeches to draw the audience’s attention to his issues with rhetoric.

Marc Antony’s speech as a turning point

Marc Antony’s funeral oration, in addition to being a climactic moment for the play, is also one of

the clearest places where Shakespeare expresses his criticisms of rhetoric. The speech is as persuasive as it is manipulative. It marks a turning point for the play. Before Antony's speech, Brutus and Cassius appear to have the support of the crowd and are about to get away with their assassination. However, with a few words, Antony sends their cause crashing down. Antony is so effective at refuting the position of Brutus because he uses rhetoric differently throughout his speech. Antony's idea of the purpose of rhetoric differs from that of Brutus. Antony places far more importance on success than he does on truth. Antony's style differs from that of Brutus in many ways, particularly in his use of dishonesty and manipulation of his audience's perceptions and their emotions. He relies not on facts but on half-truths, not on clarity but on ambiguity, and not on reason but on remorse, all to profound effect.

In the traditional, Renaissance theory, convincing rhetoric ought to rely, at least in part, on sound evidence. After all, Renaissance humanists believed that rhetoric could and should represent the truth as a way of reaching the full human potential. The three components of rhetoric--logos, ethos, and pathos--are all necessary to craft a factual and compelling argument. In the absence of evidence of Caesar's innocence, Antony depends on half-truths to back up his argument. During his speech, he cites three examples of Caesar's supposed lack of ambition. Antony, speaking of Caesar, says, "He hath brought many captives home to Rome/ Whose ransoms

did the general coffers fill/ Did this in Caesar seem ambitious?"⁸ This seems convincing on the surface. Antony is implying that Caesar was doing his civic duty by ransoming these slaves and had no other intention besides furthering the prosperity of Rome. However, by doing this, Caesar won favor with the people, further cementing his power. Thus, because his actions could have worked for his gain, Caesar could have done this without altruistic intentions in mind. Antony then cites Caesar's emotion: "When that the poor have cried, Caesar hath wept/ Ambition should be made of sterner stuff."⁹ This display must have been an affecting moment for the suffering poor and the onlookers who saw his tears. However, this display of emotion could have been a show intended to soften Caesar's image and is no proof that he lacked ambition or wept at all. Emotions are easy to feign, and they do not speak as loudly as actions do to the character of men. Finally, Antony uses his most convincing piece of "evidence," saying, "You all did see that on the Lupercal/ I thrice presented him a kingly crown/ Which he did thrice refuse: was this ambition?"¹⁰ The same principle from the preceding example still applies: this seems genuine on the surface, but could just have easily been intended to disarm those who feared Caesar's ambition. The Shakespeare Resource Center notes that "a cynical listener might reflect on the Lupercal scene and think it a publicity stunt, the empty gesture of a *de facto* autocrat."¹¹ This observation applies to the other "evidence" Antony uses

to convince his audience that Caesar was harmless. These anecdotes seem to be empty gestures designed to ingratiate Caesar to the people that left Caesar the opportunity to take power whenever he wished.

These examples do more than demonstrate that Antony is less than honest. They reveal another of Shakespeare's criticisms of rhetoric. Antony's anecdotes fail to act as sound rhetorical evidence and therefore take advantage of the limits in human perception and knowledge in order to be persuasive. None of his examples can confirm that Caesar did not have imperial aspirations, but that ambiguity goes both ways for both speakers. There is no way that the audience can confirm that the evidence is *untrue*. This is partially because the examples are stories without any tangible evidence to support them, but also because no one, Antony or Brutus, can make a definitive claim as to what Caesar himself wanted. Both speakers lost that advantage when Caesar was assassinated. Fact, in a sense, died with Caesar. These examples can therefore be interpreted either as expressions of humility or as clever ploys. Thus, Antony takes advantage of the limit of human perception. The crowd has no objective way of knowing which of the two speakers is telling the truth and has to choose whom to believe. Antony's audience therefore has to be in the right mindset to accept his interpretation of events. This is where his third and final abuse comes into play.

Pathos, or the appeal to emotion, is a critical part of nearly all rhetorical works. However, it becomes especially important when a work cannot stand on its evidence alone, as Antony's funeral oration cannot. Antony makes use of pathos throughout his speech to win over the crowd. His opening line, "Friends, Romans, countrymen, lend me your ears,"¹² betrays this fact. As the Shakespeare Resource Center notes, "Antony also echoes the opening line that Brutus uses ('Romans, countrymen, and lovers!'), but conspicuously rearranges it. Where Brutus begins with "Romans" to reflect his appeal to their reason, Antony begins with "friends," which reflects the emotional tact he will take throughout the rest of his speech."¹³ This echoing of Brutus, coupled with appeals to emotion, serves to create a contrast between the two speakers. Brutus' own clumsy attempts at pathos and capturing the hearts, as well as the minds of the Roman citizens, are no match for Antony's brilliance. Establishing this difference is key for Antony, because he cannot outright contradict Brutus at the start of his speech, but also needs to begin changing the audience's mind. His use of pathos ingratiates himself with the audience and sets them up to turn on Brutus later.

After placating the crowd, Antony slyly reverses the position of Brutus. He accomplishes this by reminding his audience of all the good that Caesar did while he was alive, which he demonstrates through the flawed examples mentioned earlier and by implicitly

portraying Brutus as the villain. While citing the various instances in which Caesar demonstrated his supposed “lack of ambition,” he repeats the line, “And Brutus is an honourable man.”¹⁴ This phrase is iconic because the first time Antony uses it, he appears to be paying respect to Brutus’s character. By the last time he uses the phrase, it becomes a mockery. Alone, the “evidence” that Antony cites is not enough to convince the audience to change their minds. With the addition of the phrase, “Brutus is an honourable man,” he not only proposes that the idea that Brutus could both be honorable and kill Caesar seems ironic, but also angers the audience for being taken in by Brutus in the first place. Antony uses pathos to blind his audience to reason, which is the only way he can overturn Brutus’ argument. He plays with his audience’s emotions in order to get his way and is able to completely sidestep the nobility of Brutus’ intentions.

Having traced the path Antony takes to discredit Brutus and the other conspirators, it is clear that his speech reveals some uncomfortable weaknesses of rhetoric. Convincing rhetoric does not require truth. In fact, disregarding reality can make rhetoric more persuasive. Stephen Newman agrees when he writes, “Shakespeare illustrates the unpleasant truth that an advocate need not be truthful to be effective.”¹⁵ Antony’s speech is a series of incredible contradictions. Not only does he win with an argument that is logically unsound, but he also fools his audience. Newman points this out

as well: “Antony repeatedly misleads his audience as to his true thoughts and intentions. He claims he respects the conspirators, but in fact he despises them. He says he won’t praise Caesar, and then he exalts him. He denies he is a skilled orator, in the midst of a dazzling oration.”¹⁶ If one man can distort reality with his words, can the audience rely on rhetoric at all to convey truth? For Shakespeare, the answer is no. Antony establishes credibility by not outright disagreeing with Brutus and chipping away at his ethos. His approach works because the crowd has no way of knowing which of the two speakers is correct; therefore, they believe the speaker who speaks to their emotion. Not only did Antony refute Brutus’ position, but he also leads the crowd to criticize Brutus’ argument for the very weaknesses Antony himself is guilty of, while masking his own flaws. Humans are emotional creatures, and thus they accept Antony’s argument because it confirms the opinion of Caesar that they held previously. The crowd had accepted Brutus’ argument moments before. Shakespeare suggests here that humans are reluctant to change their minds, and Antony’s argument enables the crowd to love Caesar once again. The crowd is much happier believing that Caesar was a man of the people. Ultimately, the flaws in human perception and emotional manipulation overcome the righteousness of the conspirator’s cause. The injustice of that stings in the moment, but becomes tragic as the audience of the play, which might believe that Brutus is truly an honorable man, watches him fail

and die in Acts IV and V.

Unconventional Narrative Structure and Dramatic Irony

Julius Caesar is distinctive not only because of the singularly rhetorical nature of the play, but also because of the narrative structure that Shakespeare employed. A typical plot follows a very formulaic structure. For instance, *Hamlet* is a case study in the use of traditional narrative structure. Shakespeare quickly establishes the play's main conflicts and moves on immediately to the lengthy depiction of Hamlet's struggle with morality and inaction. When it comes time for the story to resolve itself, it does so swiftly. In the closing moments of the play, nearly all the main characters end up dead in the space of a few minutes. In contrast to *Hamlet*, Shakespeare revels in each gory, tragic moment in the resolution of *Julius Caesar*. The natural climax of the story, Caesar's assassination, takes place in Act III. This leaves a lot of space in Acts IV and V to detail how the characters react to this momentous event. He lingers on the aftermath because he wants to highlight the tragedy of Brutus and Cassius. Tragic irony is present throughout *Julius Caesar*, but nowhere is it more apparent than in the fates of the two conspirators. These are two men who set out to save their Republic from a perceived threat of tyranny, and are both thanked for their trouble with death. However, their intentions lead to the exact opposite result. Myron Taylor notes this dissonance. He says of Brutus and Cassius, "Ultimately the very swords

that they had used against Caesar were conveyed into their own bosoms.”¹⁷ The length of resolution in *Julius Caesar* calls into sharp relief the irony of the failure of the assassins and provides a platform for Shakespeare to make his argument regarding the disconnect between intention and outcome and how that relates to the use of logos in rhetoric.

The failure of Cassius and Brutus can be attributed to their philosophy, or their attitude, towards causation and logos. Taylor writes:

Cassius is clearly identified with an atheistic and materialist world view. “You know that I held Epicurus strong/ And his opinion” he tells Messala (V.i. 77-78). An Epicurean was a man who did not credit the supernatural, feeling that the universe and man were self-governing, and that man was therefore the agent of his own destiny.¹⁸

This certainly is in line with Cassius’ actions. He acts on his own observations confidently with the full expectation that his actions will save Rome from tyranny. Taylor places the blame for Cassius’s failure squarely on the shoulders of his worldview: “Cassius assumes that in killing Caesar he can destroy Caesarism, an argument that Brutus also ultimately accepts. If Caesar has created Caesarism, then Cassius is right. But the play obviously refutes that idea.”¹⁹ However, Cassius is not the protagonist of *Julius Caesar*. That dubious honor is reserved for Brutus. The audience would not care as much about Cassius’ failings if they

were not so irrevocably linked to the fate of Brutus. By agreeing to assassinate Caesar, Brutus tacitly accepts that Cassius' philosophy is correct. It would logically follow that by killing a man, you could also effectively kill his cause. Caesarism, as a concept, goes far beyond the man himself. Caesarism is a movement aimed at leading the Roman citizens to accept tyranny. It is the cult of personality around Caesar that Brutus and Cassius are trying to combat. In order to get away with the assassination of a beloved public figure, they have to convince the citizens of Rome that Caesar poses a threat. Unfortunately, Brutus makes little attempt at appealing to his audience's emotions. Through his speech, Antony is able to thwart them, and Caesarism lives on. Brutus and Cassius fail in their endeavor due to their inability to use rhetoric effectively. Shakespeare spends so much time detailing the downfall of Cassius and Brutus and heightening the irony of their demise to highlight this point. It becomes more evident to the audience that it is an error for Cassius and Brutus to put so much faith in their own efficacy and logos alone. Antony's brilliant rhetoric uncouples the link between their intention and the outcome of their actions. This injustice, and the unfairness of Brutus and Cassius' deaths, simultaneously serves as the play's great dramatic irony and makes the argument that we cannot rely on our own volition or causation to accomplish our goals.

Tying it all together: Julius Caesar as a statement on rhetoric

The exploitative nature of rhetoric and the ambiguity of causation that Shakespeare presents in *Julius Caesar* contributes to a very bleak outlook on human nature. He demonstrates that people cannot always know objective truth and that they must sometimes rely on the words of others, yet he had already shown this to be flawed. He then moves on to tear apart the assumption that our actions will always yield the desired results. But still he has more to say. Present throughout the play is a certain ambiguity of motivation, a factor that Antony takes advantage of in his speech, casting into doubt the virtue of many characters. The motives of Cassius are somewhat suspect. Perhaps he is trying to remove a political rival rather than spare Rome the tyranny of Caesar. He may not be entirely altruistic. Killing Caesar could elevate him to a position of prominence and perhaps even enable him to seize power himself. For that matter, it is unclear whether Caesar intends to crown himself king; moreover, the assassins never give him the chance.

By making these agendas unclear, not only to the people of Rome and the characters in the play, but also to the audience, Shakespeare accomplishes something unique. He puts his audience in the same dilemma as the citizens of Rome. They need to make judgments on the characters with an incomplete understanding of why they are acting. In a way, he casts them as members of the crowd, a comparison that Michael Mooney draws.

He writes:

He privileges and deceives the spectators, alternately placing them in positions of “superior awareness” and misleading them. In a play in which everyone is “prey to rhetorical manipulation,” Shakespeare threatens to transform his audience into the “dogs” of the Republic, into part of the many-headed multitude that is the mob in *Julius Caesar*.²⁰

It is ironic that Shakespeare chooses to question rhetoric’s efficacy in a play. Shakespeare conceals the motives of certain characters not only from the people of Rome but from the audience as well and leaves them as unanswered questions at the play’s end. He wants his audience to question what he and his characters are saying. The audience is left wondering who is acting in Rome’s best interests. Many authors would make the intentions of Cassius, Antony, and Caesar clear, but by obscuring them, Shakespeare puts his own story into doubt in service of a larger point. Not only is he leading his audience to question the motives of the play’s characters, but he is also arguing that sure knowledge of anyone’s motivations is impossible, including the author’s.

Human perception and intentions

With all the ambiguity created by the slippery rhetoric in *Julius Caesar*, Shakespeare leads his audience to question the believability of the story he puts

forward. The play is a statement about how imperfect rhetoric is, but it also attempts to answer the question of how much we can “know” others. To what extent can we claim surety in our knowledge about someone else’s motivations? Our perception of “why” and even “how” people act is obfuscated. This argument calls into question my own analysis of Shakespeare’s work, but it also highlights a crucial point. What Shakespeare is implying with *Julius Caesar* is that we can never know what compels others to act--whether the people around us have an ulterior agenda or are acting out of true altruism. The difficulty in proving what I am arguing in this essay is proof enough of that fact. Even with all of my logical arguments backed up by second opinions and scholarly research, there is substantial room for doubt. When we have words straight from an author’s pen regarding what his work means, we must take them with skepticism. They could be deceiving us, as Antony did, or even themselves, as Cassius and Brutus did. Rhetoric is often defined as a means of representing reality, but Shakespeare shows that definition to be too limited. It would be better to define rhetoric’s purpose as a means of representing our perceptions of reality, or persuading others to see it a certain way. At the start of this essay, I claimed that we can make arguments as to what an author wants us to learn from his work; however, I never went as far as to say that we could be sure of that judgment. I am reasonably sure that I am right, but a chance for error always exists. We can and

should be confident in our assumptions, but we should also remain open to new ideas and arguments. This kind of knowledge is imperfect, which is frustrating, but we must be content with it. Failure to do so will make us dogmatic and open to the kinds of mistakes made by Cassius and Brutus.

It is curious that in this sea of doubt and inadequacy, the one character who gets what he wants is Marc Antony. He somehow rises above the failings of the other characters. What makes the other characters different is that, in some way, each of them is ignorant of one of the lessons that Shakespeare is trying to teach us. Brutus and Cassius place too much faith in truth and reason, and the people of Rome lose because they cannot see that Antony is deceiving them. Shakespeare makes Antony alone aware of all these shortcomings, and has him take full advantage of them. He uses ambiguity of motivation and abuses rhetoric to achieve his goals. It seems that Shakespeare is urging us to have this same awareness. He is not encouraging us to stoop as low as Antony did, because he casts him as a villain. However, if we can take caution from Shakespeare's example, we might avoid the tragedy that befell Rome.

NOTES

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