

The Polis

The Centennial Series:
Volume Six

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Introduction

Rabbi Joshua Kahn,
Head of School, YUHSB

The Torah guides us (Deuteronomy 32:7), “*zechor yemos olam; binu shenos dor va’dor*”—“remember the days of history; understand the years of each generation.” In this dual command, the Torah is teaching us both the importance of studying and internalizing history, as well as the value to understanding the unique characteristics of our contemporary society. Our history guides and shapes us, while simultaneously, an awareness of current events influences us. The Torah’s guidance is at the core of our Polis publication, which demonstrates a deep knowledge and understanding of history, as well as a keen analysis of the socio-political trends of our current world stage.

It is an honor to introduce the work of our talmidim and faculty, scholarly articles that reflect the sophistication of their research and thought, scholarship that reflects the give and take that takes place inside and outside of the classroom, scholarship that reflects the academic culture at MTA.

Thank you to our editors-in-chief, Benjamin Golani and Israel Skuratovsky, as well as our faculty advisor, Mr. Murray Sragow.

THE POLIS

Discussion on Maimonides at the Kiosk of the Polis

Rabbi Mordecai Brownstein

Philosophers, sages, and their disciples gathered at the kiosk invite the curious to a discussion concerning the admittance of secular thought and thinkers into exegetical conversation on Scripture and Talmud. The discussion is multifarious, expanding to include more than Scriptural text and *Talmud* alone—*weltanschauung*, too. How Jewish must Jewish ideas be? What are Jewish ideas as opposed to non-Jewish ideas? Are ideas from other sources not recognized? The discussion is lively. One interlocuter, Rabbi Samuel David Luzzatto, claims Judaism is rich enough to supply its intrinsic philosophy; thoughts from another academic camp need not aid it. Writing on Deuteronomy 6:5, “רַב־לֵב לַיְיָ” —“with all your heart,” he states:¹

What is the idea of this commandment? Certainly, it is to love God. However, an explanation is in order, not because the subject is difficult to understand or confusing by itself, but because philosophers have interjected opinions of Greek thinkers into the Jewish Torah. They have altered the landscape of Torah thoughts to agree with those philosophers. Since such is quite impossible, a conglomeration of Torah with Greek thought that is neither Torah nor philosophy emerged, leaving a void for those who seek philosophy and those who desire Torah. That ancient philosophy [of the Greeks] is extinct, yet Jewish books are full of that obsolete thought! Truth seekers and Torah scholars do not find satisfying works.

An example is the explanation offered on this verse. I quote, “תִּבְהָאֵו יְיָ אֱלֹהֶינוּ תֵּן לָנוּ” —“You shall love the Lord your God” [Deut. 6:5]: ‘Rejoice without limit in the understanding of [the Lord’s] perfection, and find pleasure in His faith and unity, and do that which is favorable in His eyes. For that is the character of love.’ The beginning, ‘Rejoice without limit,’ is based on Greek thought [which values knowledge of God]. However, the conclusion, ‘that which is favorable in His eyes,’ is based on Jewish thought [which values enthusiasm, ritual, and motive in serving God]. However, these two [attitudes] are contradictory. Since if one understands the infinite perfection of God and believes in His absolute unity as espoused by the [Greek] philosophers, [that He is beyond the influence of the sublunar world and distanced from it], there is one of two options: Either to think He is superior and exalted with no interest in the particulars [of the mundane] or all is predestined by divine decree. In any case, it is not feasible that the mortal heart will act to please God, thinking that everything is acceptable to God [if God has no concern for particulars—people and worship].

At this point, I wonder how those philosophers do not comprehend that the goal of philosophic speculation is not the same as the goal of delving into the Torah! The goal of philosophic speculation is knowledge and truth. The goal of delving into the Torah is righteousness and morality. Suppose one should learn from the Torah the unity of God and creation *ex nihilo*. In that case, it is not to acquire knowledge of God's perfection as philosophers maintain, but rather to infuse the soul with practical faith guiding the path of probity and justice.

If, alternatively, we imagine the god of the [Greek] philosophers, a god that is infinitely perfect [beyond human material interests], one cannot imagine any bond and relationship between Him and mortal man —no religion is possible. Of what relevance is prayer if God is unaffected by it? What is the purpose of repentance if God is unchanging emotively?

Maimonides thought that the love of God is predicated on research-

ing nature fully, leading to the discovery of God's wisdom therein.² Consequently, he devoted three chapters in the *Mishne Tora*, Laws of the Foundation of the Torah, to instruction on some knowledge of the physical world which would inspire the heart to love God [and hold Him in awe]. All this is extremely distant from the purpose of the Torah. Those [three] chapters are not relevant to the greater work of the *Mishne Torah* [which is *halakha* codification]. Had Maimonides been truly a philosopher, he should have understood that in a subsequent generation, the opinions of Aristotle and his followers in physics and astronomy could be refuted, so the *Guide for the Perplexed* [based on Aristotle's thoughts] would prove falsehood.

I do not say this to diminish not even a breadth of a hair from respect owed to Maimonides—only to inform the young of the generation. Nevertheless, to rely on famous contemporary philosophers like Rabbi Abraham ibn Ezra and Maimonides on Aristotle and other Islamic thinkers, and like [Moses] Mendelssohn relied on [Gottfried Wilhelm] Leibnitz and [Christian] Wolff, and others rely now on [Immanuel] Kant, [Georg Wilhelm Friedrich] Hegel, or [Baruch] Spinoza—one is not a greater philosopher than one who relies on Abraham, our Patriarch, Moses, Hillel [the Elder], or Rabbi Akiva.

Rabbi Samuel David Luzzato, a student of ancient and modern languages (Hebrew, Greek, Latin, Aramaic, Syriac, French, German, Italian), ancient history, and mythology, was no stranger to the interpretation of Scripture from sources outside the canon of traditional Jewish literature. Nevertheless, he argued for interpretation based on a closed system and that the Torah could and should explain itself, as the Jerusalem *Talmud* states:³ “Though Scripture is needy in one place, it is richer in another.” The explanation and interpretation of Scripture, especially the Pentateuch, from inside its own philosophical, historical, and ethical wealth is likewise the underpinning of Rabbi Samson Raphael Hirsch's translation and exegesis on the Pentateuch. Isidor Grunfeld writes:⁴

The endeavor to explain the Biblical text “*aus sich selber*” [out of itself] and based on our tradition is in keeping with Hirsch's general

principles of Jewish research, which he explained at length in the “*Nineteen Letters*,” especially in an additional note to Letter Eighteen. What Hirsch wrote is crucial for understanding his Commentary on the Pentateuch. Whereas the Reformers [German-Jewish Reform movement at the beginning of the nineteenth century], when studying Judaism, looked at it as it *ought to be* from their preconceived point of view and with the object of “modernizing” it, Samson Raphael Hirsch, the true scientist that he was, objectively investigated the sources of Judaism as *given phenomena*.

In reality, two revelations lie before us: nature and Torah. In the Torah, as in nature, God is the ultimate cause; in the Torah, as in nature, data may not be denied, even though the reason for them and their interconnection may not yet be comprehended. Facts endure independent of our reasoning and cannot be reasoned away. Consequently, any theory concerning Judaism as a religious philosophy or relating to the underlying idea of any individual law of the Torah must be checked by and out of the classical sources of Judaism, i.e., the written text of the Torah and the *Talmud*, which contains its authentic interpretation. Both together form what is known as the Torah in the wider sense of the word.

In the investigation of Judaism “from within” [*“aus sich selbst heraus”*], Samson Raphael Hirsch applied the methodology of natural science, with only one difference: legal facts took the place of natural facts. The philosophy of Abraham, Moses, Hillel [the Elder], and Rabbi Akiva is sufficient for understanding humankind and its purpose, as stated above. However, Luzzato presents a second argument criticizing secular philosophy as an exegetical instrument: The purpose of philosophy diverges from the aim of Torah study. As quoted above: “At this point, I wonder about those philosophers how they do not comprehend that the goal of philosophic speculation is not the same as the goal of delving into the Torah! The goal of philosophic speculation is knowledge and truth. The goal of delving into the Torah is righteousness and morality. Suppose one should learn from the Torah

the unity of God and creation ex nihilo. In that case, it is not to acquire knowledge of God's perfection as philosophers maintain but to infuse the soul with practical faith guiding the path of probity and justice."

In "*What is Philosophy For*," Mary Midgley wrote:⁵

Philosophy, in fact, is all about how to think in difficult cases—how to imagine, how to visualize and conceive and describe this confusing world, which is partly visible to us, partly tangible and partly known by report, in a way that will make it more intelligible as a whole. It is a set of practical arts, skills far more like the skills involved in exploring an unknown forest than they are like the search for a single buried treasure called the Truth. And because of this it is far more concerned with the kind of questions that we should ask than with how, at any particular time, we should answer them.

Midgley describes philosophic speculation in a way that makes it foreign to Torah scholarship. Concerning the Greek academies of philosophy in premodern times, she added, "The people who have decided to remove God from their world-map are not just making a geographical change, like removing Australia. They are shifting the standpoint—the perspective—from which this view is taken. They have decided to move inwards and to cut out the wider spiritual context which had, till now, been thought relevant. They have decided to study a smaller world." Philosophy would not give students the proper tools to study religious rituals or Torah. Not only are the goals different, as Luzzato maintains, but the approach is different, as seen by Grunfeld's and Midgley's descriptions of the research method. Thus, we have a criticism of Maimonides from the works of various scholars entering the discussion from the kiosk, though they have very little in common.

In his introduction to *A History of Medieval Jewish Philosophy*, Isaac Husik penned the following:⁶

Philo of Alexandria and Maimonides of Fostat were the products not of the Bible and Talmud alone but of a combination of Hebraism and

Hellenism, pure in the case of Philo, mixed with the spirit of Islam in Maimonides... It was, in reality, once more a set of two documents. The Bible and *Talmud* were the documents of revelation, and Aristotle was the document of reason. Each was supreme in its sphere, and all effort must be bent to make them agree, for as revelation cannot be doubted, so neither can the assured results of reason.

But the more intellectual and the more ambitious are not merely permitted, nay they are obligated to search the Scriptures for the deeper truths found therein, truths akin to the philosophic doctrines found in Greek literature; and the latter will help them in understanding the Bible aright. It thus became a duty⁷ to study philosophy and the sciences preparatory thereto, logic, mathematics, and physics; and thus, equipped to approach the Scriptures and interpret them in a philosophical manner. The study of medieval Jewish rationalism has therefore two sides to it, the analysis of metaphysical, ethical, and psychological problems, and the application of these studies to an interpretation of Scripture... It is this historical background and perspective that Luzzato and Hirsch refused to legitimize as appropriate for Torah study.

As implied in Michael Friedländer's index to his English translation of the *Guide for the Perplexed*, Maimonides mentions or quotes Aristotle in at least eighteen entries indicating the philosophical basis for Maimonides' postulations. However, the Vilna *Ga'on*, wrote concerning Maimonides' attitude toward philosophy in a different, rather shrill tone. Rabbi Joseph Karo writes in the *Shulhan 'Arukh*,⁸ "One stung by a scorpion may utter an incantation even on the Sabbath; even though it is futile [as a remedy] since a life is threatened, it is permitted to save the victim from panic." Rabbi Sabbetai HaKohen explains why the Sabbath particularly was mentioned: "Even on the Sabbath when one is forbidden from idle conversation." This paragraph is a quotation from Maimonides' *Mishne Tora*. In his glosses, the Vilna *Ga'on* wrote critically:¹⁰

Maimonides [is the source], and he wrote so in his Commentary on the *Mishna*, *'Avoda Zara* 4. However, those that came after disagreed

[with him concerning the futility of incantations] since the Talmud mentions many incantations. He followed [Greek] philosophy and wrote that sorcery, demonic names, incantations, demons, cameos – all falsehood. He was struck on the skull already. Because we find many instances in the *Talmud* with demonic names and sorcery: ‘She said something and paralyzed the ship.’ At the end of the chapter named ‘Four Types of Executions’ and in the Jerusalem [*Talmud*], [*HaZaL* write about] the occurrence of Rabbi Elazar and Rabbi Judah b. Bathyra, Rabbi Hanina [b. Dosa], and Rabbi Hoshiah II [who] created a fat calf, Rabbi Joshua [b. Hananiah] levitated it between heaven and earth, Rabbi Abishai b. Tzeruya, and many similar incidents. ‘Why are they called *‘keshaphim*?’ The Torah testified, ‘And they became snakes’ (Ex. 7:12). See the *Zohar* at that location. Cameos are mentioned in many places, and incantations are too many to count. Philosophy, with its [intellectual] gifts, caused his error in explaining the *Gemara* figuratively, altering the simple understanding (heaven forbid). I do not believe in them. I am not one of them. I do not associate with them. All stated [in the Talmud] is as implied. However, there is a deeper meaning—not the superficial philosophical depth—the [deeper meaning] of those who possess the truth.

Throughout his criticism of philosophy, the Vilna *Ga’on* does not say philosophy is false or heretical. Instead, the philosophical interpretation of the *Talmud* is inadequate. Conversely, he maintains that philosophy can yield a “superficial” explanation of the *Talmud*. This observation attributing at least superficial truth to philosophy, must be explored. How does this view compare to that of Luzzato?

What did Maimonides’ contemporaries hold of his philosophic speculation, especially of the fundamental Torah principles based on logical reasoning and sources outside the Torah? Maimonides is quoted no more than twice in the standard edition of the *Tosaphot* on the Babylonian *Talmud*. The *Tosaphot* on *Berakhot* 44a¹¹ mention Maimonides regarding what they consider to be a novel idea not found in the *Talmud*—to add a prayer for the Sabbath or holidays to the text of the blessings. The *Tosaphot* on *Menahot* 42b¹² quote Maimonides in

support of their opinion concerning the treatment of parchment for *mezuzot*. However, the *Tosaphot* remark disappointingly that Maimonides does not disclose his source in the *Talmud*. Maimonides was not a commentator and, unlike *Tosaphot*, did not write on the *Talmud*. Ephraim Kanarfogel posits,¹³ “Several studies published during the past two decades have sought to explain why Maimonides’ Mishneh Torah is hardly cited in the rabbinic literature of northern Europe at least until the mid-thirteenth century.” Kanarfogel proposed the following explanation for the conspicuous omission of Maimonides’s halachic opinions from the works of the *Tosaphot*:

It has been suggested that the pattern of minimal usage of Mishneh Torah by the Tosafists of northern France can best be understood as a ramification of the Maimonidean controversy. Samson [b. Abraham] of Sens was drawn by Meir ha-Levi Abulafia into the earliest phase of this controversy; the period in which the standard *Tosafot* were produced occurred well after the phase of the controversy in the early 1230s, which involved a group of otherwise unidentified [French rabbis]. In a word, the non-philosophically inclined Tosafists had little use for Maimonides or his Mishneh Torah. As will be seen below, however, this suggestion is untenable.

Considering other theories as to why Maimonides was unattractive to the *Tosaphot*, Kanarfogel offers: Maimonides’ Mishneh Torah... does not provide an ongoing commentary to the text of the *Talmud* [even as it does supply clear Hebrew translations for passages of the *Talmud* in the course of its formulations of *halakha*].” Kanarfogel concludes, “Maimonides was neither friend nor foe in Ashkenaz. The reception of his writings depended not on his philosophy or beliefs but on what he had to offer Ashkenazic rabbinic figures, a calculation that depended on the genre and aim of each particular project and area of study.

Indeed, there was a stormy season of antagonism and vituperation between the Maimonideans and the anti-Maimonideans. A storm so threatening to High Medieval European Jewish communities that only the extraordinary countenance of Nachmanides was able to calm the hostility. In 1232, Rabbi Solomon

b. Abraham of Montpellier banned studying, printing, and selling the *Guide for the Perplexed* and various sections of *Mishne Tora*. Rabbi b. Abraham's disciple, Rabbi Jonah Gerondi, who later authored the *Sha'are Teshuva*, was dispatched to the northern French *yeshivot* to spread the proclamation of the ban. However, Rabbi David Kimhi supported Maimonides. It is no wonder that under such discontent in scholarly circles as this was, the quotation of Maimonides was curtailed until the clouds of battle dissipated. Clouds issued from 24 wagons of the Talmud ordered burned by Pope Gregory IX. They were carried out by Louis IX in 1242 in Paris, which some historians feel was instigated by torching copies of the *Guide for the Perplexed* in Montpellier by Rabbi b. Abraham's followers. The smoke and clouds cleared, revealing the radiance of Maimonides for the Jewish world.

If one remains at the kiosk longer, one will hear the voices of Matthew A. Berk, James A. Huie, and Craig Brownlee recount the calamity of the conflagration:¹⁴

The Moreh Nevuchim was condemned by Solomon ben Abraham, chief of the synagogue at Montpellier, who asserted that the works of its author were heretical, and infected with the philosophy of Averroes; he added that many of his arguments gave a great advantage to the Christians, and might be made use of to undermine his own faith. Solomon, with his disciples, David, and Jonah, adopted harsher methods of counteracting his doctrines than a simple declaration of private opinion. They forbade the reading of his works, upon pain of excommunication, and caused to be burnt all the copies which they could seize. On the other hand, the rabbis of Narbonne, Beziers, and other cities in the south of France, who entered the lists in defense of the accused, excommunicated Solomon, with his friends, for their audacity in condemning the writings of one whom his followers had termed the Glory of the East and the Light of the West.

Leonard S. Kravitz and Kerry Olitzky demand our attention next:¹⁵ Jonah Gerundi was a Spanish Rabbi and moralist who studied in French *yeshivot*. He was born in Gerona and lived during the first half of the thirteenth century. He spent much of his adult life in Barcelona

before establishing a yeshiva in Toledo—originally en route to [the Land of Israel]. Gerundi joined his teacher Solomon ben Abraham of Montpellier in his campaign against Moses Maimonides’ “*Guide for the Perplexed*.” When in 1240 wagon loads of Talmud volumes were burned in Paris, Gerundi took the burning as a sign of divine displeasure for his having joined the anti-Maimonist camp. It is said that he wrote “*The Gates of Repentance*” as a sign of remorse. He also made a pilgrimage to Tiberias to pray at Maimonides’ grave.

What was it that incensed Rabbi b. Abraham? What did he find in the *Guide for the Perplexed* or the *Mishne Tora* that ignited the controversy? What would Maimonides write that could have been so wrong? The account written and elucidated by Rabbi Isaac Samuel Reggio (1784–1855) is enlightening:¹⁶

Several years after our master Moses b. Maimon was taken to the rest, and a portion was reserved for great leaders as he and his instrumental works were distributed throughout all scattered Jewish communities. Some men rose in Montpellier irresponsibly speaking about Maimonides’ works. The leader of the instigators was Rabbi Solomon b. Abraham with two disciples, Rabbi David b. Saul and Rabbi Jonah [Gerondi], followed by other scholars and inhabitants of those communities. Among other objections was their criticism of what he wrote in various places of the *Book of Knowledge* that the Creator, may He be blessed, is not corporeal, not possessing any physicality in opposition to what they thought and believed. They were neither conspiratorial nor deniers of faith, only lacking direct knowledge and having a misleading sense caused by what shall be expressed below. Because of these errors, they thought the saint denied the Torah (God forbid) concerning this very belief. They wrote negatively about him [Maimonides] things that are forbidden to be put into words. When the tumult was heard in the community of Narbonne and the communities of Provence, all their true scholars that were enwrapped with the spirit of zeal for the Lord of Hosts and trembling at the profanation of His great Name rose, ostracized, and excommunicated Rabbi Solomon and his two disciples, as they were the leading instigators.

This is evident from Nachmanides' letter to [the *Tosaphot*]. These are his words literally: You criticize the *Book of Knowledge* that says that above, there is neither form nor physical structure. Why, our masters, do you criticize him for this?" Rabbi Solomon b. Abraham of Montpellier writes, "One of the well-known things is the ubiquitous belief of corporeality in past generations throughout the entire Jewish exile." He adds, "Almost through all corners [of the world] belief in corporeality spread until Maimonides' works were published in these countries... They criticized him for saying that the Creator has no measure or shape. Rabbi Moses Alashkar, in his arguments against the *Book of Matters of Faith* by Rabbi Shem Tov, affirmed these data: "Those great scholars in *Talmud* wisdom in France and elsewhere ascribed corporeality to the Creator publicly." The best presented of all is found in the organized, lengthy response of that the great sage Rabbi Abraham Maimonides:

Whoever disagrees [with Maimonides] saying the Creator, may He be blessed, possesses form or physical structure, denies the reality of his Creator, and is classified as a heretic, forfeiting his share in the next world. Rumors were heard in our region that many across the sea [Europe] err concerning this fundamental principle following the simple meaning of Scripture and *'Aggada*—our hearts grieve because of this, and our eyes darken. How can such defilement exist in Israel? My father and master elaborated on this point which is fundamental to the Torah. He explained it and brought many logical and Scriptural proofs, which are found in his enlightening books, the *Guide for the Perplexed* and the *Book of Knowledge*, so that any intelligent person serious about knowing the truth is pleased, delighting as if discovering a treasure. All contaminated souls maintaining silliness and captivated by nonsense separate from them [those that know the truth] and slanders them—one who slanders is a fool!

After this lengthy and credible account, I now beg the question from all that God granted wisdom and common sense: What was the cause of this contagious evil in our nation? How could it happen that great rabbis, leaders of the Jewish exile, spending all their days with Torah and the *Talmud* became suddenly ensnared in the net of this funda-

mental denial? How did this trap come to their proximity?

Frankly, one who ponders the source of these issues is compelled to admit that this was caused by oblivion to metaphysics since the wisdom of the Creator is its lesson; through it, we clarify direct rational proofs that the Creator is not corporeal and not susceptible to natural physical necessities, and so the Heavenly is exempt from materialism.

The sharpest evidence [that many scholars subscribed to the doctrine of the corporeality of God] is learned from Rabbi Abraham b. David in his gloss on the *Mishen Tora*. Maimonides wrote,¹⁷ ‘Whosoever maintains the Creator, may He be blessed, is corporeal, of physical anatomy, is considered a heretic.’ Rabbi b. David [protested and] wrote,¹⁸ ‘Why is he considered a heretic? Many great and better than he adopted that thought according to what they saw in Scripture and, more so, what they saw in the *’Aggada*, which can confuse the mind.’

Rabbi Shem Tov b. Abraham i. *Ga’on* in *Migdal ‘Oz* rightfully remarks, “I am shocked at these two expressions that [Rabbi b. David] exclaimed concerning Maimonides—‘greater and better.’” Rabbi Joseph Karo in the *Keseph Mishne* is, likewise, amazed: “One wonders about the holy mouth [of Rabbi b. David in] how it considers those that subscribe to the doctrine of corporeality and physical anatomy ‘greater and better’ than [Maimonides].” Rabbi Moses b. Jacob Cordovero (1522–1570) in *Pardes Rimonim* mollifies the criticism of Rabbi Abraham b. David:¹⁹

It would be fitting for us to know if someone denies the existence of *sephirot* if that person is a ‘denier’ [of a fundamental principle] or not... Proof of this from the negating of corporeality from the true unity, may He be blessed, Maimonides declares in the *Book of Knowledge* 3, “Whosoever believes in the doctrine of corporeality and physical anatomy is sectarian.’ He includes the non-believer in the category of other sectarian.” Rabbi b. David protested, “Why did he call this individual a sectarian when much greater and better than him adopted that thought according to what they saw in Scripture and more so

what they saw in the *Aggada* which can confuse the mind”... It is inappropriate to think that Rabbi b. David held that person is not a sectarian. Indeed, whoever believes in the corporeality [of God] is a sectarian... A person who serves God in every way, following the Torah path with dedication, however, because of lack of understanding, believes in the doctrine of corporeality, is not considered a sectarian, though that individual is mistaken.

We can breathe easier by removing the term sectarian from *Tosaphot* and merely regard them as mistaken, though that is discomfiting enough.

A variant text of Rabbi b. David’s polemic is found in the *Book of Principles* by Rabbi Joseph Albo (1380–1444):²⁰

More than this, Rabbi b. David wrote that one who misunderstands a fundamental principle of the Torah because of an error in logic could not be considered a sectarian. He wrote so in his glosses, remarking on what Maimonides wrote: ‘Whosoever says that God, blessed be He, is corporeal is sectarian.’ Rabbi b. David comments, ‘Even though this is the fundamental principle of faith, one who believes that He is corporeal because of an impression from simple terminology in Scripture and *Midrash*—it is not appropriate to consider the individual a sectarian.’

Note the omission of the phrase, “greater and better than him,” that Rabbi Shem Tov b. Abraham i. *Ga’on*, Rabbi Joseph Karo, and Rabbi Samuel Isaac Reggio found offensive to Maimonides. Did Rabbi Joseph Albo intentionally omit it, or does he have a different textual variant?

Rabbi Bahya i. Paquda (1050–1120) in the *Duties of the Heart* reflects on our subject and its ramifications:²¹

The foolish and simple will conceive the Creator by the literal sense of the Scriptural phrase. Moreover, if he assumes the obligation of serving his God and strives to labor for His glory, he has a great excuse

for his erroneous conception in his simplicity and lack of understanding. Man is accountable for his thoughts and deeds only according to his powers of apprehension, comprehension, physical strength, and material means. Only if a man can acquire wisdom and foolishly neglects to do so will he be called to account and punished for his failure to learn.

Nachmanides, in his famous epistle, writes, “Before I erred, I went astray,” after addressing the non-corporeality of God and quoting other medieval writers, he condemns in not-so-gentle terms the *Tosaphot* who disagree with him and Maimonides:

I, therefore, declare truthfully that any believer in God’s spirituality understands that as the [human] soul has no physical limbs on emerging from His [the Creator’s] holy throne, so the Creator [Himself] has no corporeality, physical anatomy, or form at all. The believer [in this] is fortunate. The non-believer will be consigned to a fire that cannot be extinguished!

In the *Guide for the Perplexed*, Maimonides reads Targum *’Unqelos* with attention to the latter’s portrayal of God:²² “Every expression implying corporeality or corporal properties when referring to God, he explains by assuming an ellipsis of a *nomen regens* before ‘God,’ thus connecting the expression [of corporeality] with another word which is supplied, and which governs the genitive ‘God’: “And behold the Lord stood arrayed upon it” [Genesis 28:13], he explains, “The glory of the Lord stood arrayed above it.” This is but one example of *’Unqelos*’ sensitivity to depicting God as one would a mortal with physical anatomy and public visibility.” Maimonides exposes his secular sources without blushing:²³ “It is further necessary to consider that unity and plurality are accidents supervening an object as it consists of many elements or of one. This is fully explained in the book *Metaphysics* [of Aristotle].” Without metaphysics, one believes in the corporeality of God.

When a rabbi, a *rosh yeshiva*, speaks, the kiosk is respectfully silent. Introducing Rabbi Chaim of Valozhyn, a disciple of the Vilna *Ga’on*, our first Lithuanian

speaker:²⁴ “Where philosophy ends, from that point and above, the science of *Kabbalah* begins; from where the *Kabbalah* of Rabbi Moses [b. Jacob] Cordovero ends, from that point and above the *Kabbalah* of Rabbi Isaac Luria begins.” Rabbi Chaim stepping in tune with his great mentor, the Vilna *Ga’on*, felt there is a role for philosophy to play even as a preface to higher study, the esoteric study of *Kabbalah*. How surprisingly does this opinion fit the quote above from the Vilna *Ga’on*: “All stated [in the *Talmud*] is as implied. There is, however, a deeper meaning—not the philosophical depth which is superficial—the [deeper meaning] of those that possess the truth.” Philosophy can supply meaning, albeit superficial, leading to higher meaning and intellectual goals.

It remains to ascertain the intellectual hierarchy linking philosophy to the science of *Kabbalah*, how they interact, and how *Kabbalah* requires philosophy to open its academic door. A barely noticed passage in the epistle above by the Nachmanides to the *Tosaphot* cites the patriarch Abraham in passing:²⁵

All the rabbis, Rabbi Chananel [b. Chushiel], Rabbi Nissim [b. Jacob], and Rabbi Nathan [b. Abraham I] knew and wrote that the Creator possesses no form or material, and they damned the believer [in corporeality]. Our father Abraham, peace be upon him, understood and knew this.” Rabbi Charles Ber Chavel, in a footnote, refers the reader to the *Sepher Yetsira*, a book of *Kabbalah*, 6:7: “When Abraham, our father, peace be upon him, arrived, he scrutinized, saw, investigated, understood, delved, cut through, and discovered [the concept] of Creation. The Master of all, may His name be blessed, was revealed to him.” The implication seems to be that Abraham knew about God’s incorporeality well before secular philosophy rejected the corporeality of God because God “was revealed to him”—the truth of God’s amorphous existence was revealed after much delving and searching. Nachmanides perhaps alludes to the idea that Abraham philosophized even before the Greeks. Still, the instrument that taught Abraham God’s incorporeality was human logic—call it metaphysics or anything else—so that same sense of logic should guide the student in Scripture to assume the bodily form of God in verse and *Talmud* must be figurative.

In place of a formal introduction, the Vilna *Ga'on* delineates the various methods of the Book of Proverbs' presentation, voice, and analysis: "In everything, there is substance, action, form, and purpose." The terms employed by the *Ga'on* find a precise parallel: Aristotle defines the causes and the reason for being as four: the material, formal, efficient, and final. Thus, philosophy has supplied the student with a method of understanding Scripture, perhaps merely superficially calling it its "simple meaning."

The same degree of misinterpretation of Scriptural terminology applies to the study of Kabbalah, and as the initiated will confirm, perhaps more so. A partial list of seemingly corporeal terms can underline misunderstanding in the text of various ancient or modern *Kabbalah* books. Terms such as *dekhura*, *nuqva*, *'abba*, *'imma*, *'attiq*, *yomin*, *zug* found copiously in the text of works such as the *Zohar* are wildly misleading if taken literally. Such terms are found in discussions of interaction, domination, and affinity. The authors of the *Zohar* noticed this:²⁶ "Rabbi Simon [b. Yohai] rose and prayed his prayer. He sat with them [his students] and requested each to conceal his hand underneath his own shirt; having done that, they held hands. He began and declared, 'Cursed be the person who makes a sculptured or cast idol, which is repulsive to God your Lord even if it is a craftsman's handiwork, and places it in a hidden place.'"

Why this introduction to a lesson in *Kabbalah*? So the mind does not wander from concept to materialism, from allegory to physical, and from spiritual to banal. Stated differently, these are concepts expressed as anatomy—this is not anatomy! As the Vilna *Ga'on* explains, "and places it in a hidden place," meaning in mind, hidden from view, imagining the nonphysical as physical objects. One may not envision physicality in "the hidden place of the mind," a place beyond physicality and materialism, even if ordinary physical terms are mentioned—it is the idea that is alluded to, not the object.

Had Rabbi Solomon b. Abraham of Montpellier studied either *Kabbala* or philosophy, he would have averted the controversy. The discussion concluded, so the kiosk adjourned.

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- 3 *Jerusalem Talmud*, *Rosh Hashshana* 3
- 4 *Introduction to the First English Edition of Rabbi S. R. Hirsch's Commentary on the Torah*, Dayan Dr. I. Grunfeld, Judaica Press, New York, 1971
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- 8 *Shulhan 'Arukh Yore De'a* 179:6
- 9 *Siphte Kohen on Shulhan 'Arukh, Yore De'a* 179:8:1
- 10 *Be'ur HaGGeRa on Shulhan 'Arukh, Yore De'a* 179:13
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- 12 S.v., "phylacteries"
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- 17 *Mishne Tora*, Repentance 3:7
- 18 *Hassagot HaRa'aVaD* 3:7:1
- 19 *Pardes Rimonim* 1:9
- 20 *Book of Principles*, *Ma'amar* 1 9
- 21 *Duties of the Heart*, First Treatise on Unity 10
- 22 *Guide for the Perplexed*, Part 1 27
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Direct Democracy vs. Republicanism: History and Purpose of the Electoral College

Elie Beer '24

I

Historical Context of the Electoral College

"Abolish the Electoral College", "Hillary won the popular vote", and "the system is rigged" were prominent objections to the electoral outcome of the 2016 presidential election. On the surface, the issue seems simple: the American people's decision for the President was misrepresented and the Electoral College must be rectified in order to ensure the equitable representation of all citizens. However, the seemingly simple issue of whether or not the Electoral College should remain becomes complex when one examines the historical context in which the Electoral College was established as well as the reasons behind the United States' electoral system, a system that dates back to the formation of the country's government itself.

Following the Declaration of Independence in 1776, the Founding Fathers were faced with the immense responsibility of creating a just and enduring governmental system. When the Founding Fathers convened to write the Constitution, there were certain parameters they had to adhere to when establishing the United States' political system. The Founding Fathers could not base the political system on the British constitutional monarchy, as they had witnessed firsthand the tyranny present in such a system—case in point, Britain's infamous taxation without representation. On the other hand, they were

hesitant to create a direct democracy due to concerns related to illiteracy and lack of education among the general populace. Operating within these guidelines, the Founding Fathers created a democratic republic: a system in which citizens vote through representatives.

One of the primary aspects of a democratic republic is the election of the president. Since the United States was created as a republic, the Founding Fathers instituted a system to elect the president in accordance with republican ideals. Thus, Article II, Section I, Clause I, of the United States Constitution reads as follows: “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.”² Once the Electoral College was established, the distribution of power between the federal government and state governments in relation to the Electoral College still had to be defined. To this end, Article II, Section I, Clause II, of the Constitution reads: “The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate...”³

II

Ideological Reasons for the Creation of the Electoral College

While it may seem that the Electoral College was created out of practical necessity, it was also influenced by the notion of federalism, or division of power between the federal and state governments, fear of mob rule, and the Founding Fathers’ vision for the United States as a republic rather than a democracy. First and foremost, the Electoral College was created in accordance with a principle echoed throughout the United States Constitution: federalism. Federalism stipulates that the powers of the federal government are those defined

in the first nine Amendments, and any powers not mentioned in the first nine Amendments belong to the states. In other words, the federal and state governments must work in tandem to check each other's power, with the states maintaining the majority of governmental authority. The Electoral College is a key component of federalism, as it grants influence over the electoral process primarily to the states, yet maintains federal power by electing a federal government official—the President. Without federalism, there would be no legal or political way to keep the federal government's power in check. In the case of the Electoral College, federal elections serve to limit the federal government's power.⁴ Moreover, the Electoral College was formed out of concerns that direct democracy would give rise to mob rule, even if voters were educated. This is clearly outlined in the 55th Federalist Paper in which James Madison writes, "Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob."⁵ In other words, regardless of voters' education levels at any point in history, the Founding Fathers were concerned that direct democracy could give way to mob rule.⁶ As expressed by Madison's quote, the fact that the majority of people want something does not render it best for the country. Finally, the Electoral College was created to serve as a key mechanism in America's identity as a republic. Since the United States is not a democracy, which would mean that every citizen votes directly, the Founding Fathers implemented republican ideals when establishing the process of electing the President, and devised the Electoral College: a republican system wherein each voter is represented by elected officials, namely electors.

III

Practical Reasons for the Creation of the Electoral College

Although the aforementioned ideological reasons for the creation of the Electoral College constitute the main motives for its establishment, the practical considerations of population disparities between states, fear of illiteracy and lack of education among voters, as well as the need for larger and smaller states to compromise were influential as well. Practically, smaller states were concerned about creating a union with larger states because they anticipated that they would lose power, while larger states like New York and Pennsylv-

nia would dominate the Union. By creating the Electoral College, the Founding Fathers ensured that every state, regardless of its size, would have at least two representatives—a reflection of the two Senators from each state—and play a key role in national elections.⁷ Furthermore, the Electoral College was created in order to limit the influence of uninformed, illiterate, and/or uneducated voters. In the late eighteenth and early nineteenth century, many voters were uneducated or illiterate, and by considering votes on a state-wide rather than individual basis, each vote was worth less and the influence of uneducated voters was reduced. Electors were intended to be upstanding and educated citizens who would compensate for any shortcomings of voters. Finally, the Electoral College was created as a compromise between those from smaller states who favored direct democracy and those from more populous states who favored direct congressional elections—voting exclusively by Congress. The Electoral College served as a middle ground between these two extremes in order to please as many people as possible. Evidently, with an understanding of the historical reasoning behind the creation of the Electoral College, one can further explore whether it is worth maintaining.

IV

The Process of the Electoral College

The Electoral College determines electoral votes based on the number of senators and representatives each state has in Congress. Today, there are 538 total electoral votes from the 50 states and the District of Columbia. Prior to election night, both political parties appoint potential delegates, known as electors, who formally vote in December to certify the results from election night. Following election night in November, the electoral votes of each state are allocated to a certain candidate in a winner-takes-all ballot, with the exception of Maine and Nebraska, which allocate electoral votes proportionally to both candidates based on the candidates' representation across the states' districts. Of the 538 total electoral votes, 270 electoral votes are needed for either party to occupy the White House.⁸

Following each election, electors certify the results in December after having

been appointed by their political party sometime before the election and sworn to secrecy in order to prevent corruption. Although electors are appointed to vote for a particular candidate (in 48 states), the Constitution clearly states that electors are able to vote freely, though this has not been upheld in most states. Currently, most states have laws prohibiting the ‘faithless elector’; nevertheless, only fifteen states actually penalize electors who vote inconsistently with their state’s popular vote.

The concept of penalizing a so-called faithless elector has been disputed in court many times.⁹ For instance, in the summer of 2020, the Supreme Court upheld the notion of individual states’ rights in holding faithless electors accountable in the groundbreaking case of *Chiafalo v. Washington*. Most legal experts maintain that following the Supreme Court’s ruling in this case, even if a state does not have a specific law prohibiting the faithless elector, the state may still remove such an elector. Such actions to minimize the frequency of the faithless elector have been met with support from conservatives and liberals alike, but for different reasons. Conservatives such as Justice Clarence Thomas have cited the Tenth Amendment in their criticism of the faithless elector. They claim that regulating electors is the responsibility of the states, not the federal government. On the other hand, liberals—most recently Justice Elena Kagan—have been quick to enact measures to limit the power of faithless electors, arguing that faithless electors violate the trust of their constituents and the general public.¹⁰ In any case, members of both parties believe that it is crucial to allow states to limit the power of faithless electors, because if electors can vote independently of their state’s popular vote, they may be subject to pressure, both domestically in the form of super PACs and corruption via foreign governments.

Even though the popular vote is recorded and broadcast on television, in reality, the popular vote is irrelevant to the election of the President. There is no mention of a nationwide popular vote anywhere in the Constitution, and the only consequential popular vote is the popular vote of each individual state as this is the factor that determines where the electoral votes of each state land.¹¹ Nevertheless, it is important to note that in the vast majority of elections, the popular vote predicts the result of the Electoral College accurately.

V

Arguments for the Abolition of the Electoral College

Up until very recently, there was a fairly common consensus: although the Electoral College had its shortcomings, it was a necessary political system where the benefits outweighed the negative by-products. However, ever since the 2000 and 2016 presidential elections, in which the Electoral College and the popular vote contradicted each other, calls to abolish the Electoral College have grown significantly stronger. Proponents of abolishing the Electoral College argue that the system provides disproportionate value to electoral votes, is intrinsically flawed, and generally inconsistent with local and state elections.

First of all, under the current system of the Electoral College, the value of each vote relative to its electoral vote renders some votes drastically more valuable than others.¹² For example, while California has 712,000 individual votes per electoral vote, Wyoming has only 195,000 individual votes per electoral vote.¹³ This means that voters are not represented equally, and as a result, voters whose votes are of higher value have a greater say in the governance of the United States. Many opponents of the Electoral College use these statistics to argue for a direct democracy in which every vote would be weighted equally.

Additionally, many object to the Electoral College because it incentivizes politicians to campaign almost exclusively in swing states. Organizations such as the National Popular Vote Inc. have called attention to the fact that presidential campaigning is almost exclusively limited to twelve swing states, including the Rust Belt states such as Pennsylvania, Wisconsin, and Michigan. The other 38 states are considered ‘safe states,’ or states that consistently support one party, and are not considered deserving of any campaigning or attention in the eyes of politicians. In the last months leading up to the 2012 Presidential election, over 150 million dollars were spent on advertising in swing states such as Florida, Ohio, and Virginia, whereas every other state had significantly less resources allocated for them.¹⁴ Those states were effectively guaranteed to support a single political party and not deserving of mass spending. Because of this, many argue that a direct democracy would encourage higher voter turn-

out and a more robust democracy. Since the majority of states consistently vote in favor of a single party, many people do not cast a vote on election night. They recognize that their vote is practically meaningless and voting is an inconvenience. Contrast this to a direct democracy: regardless of the geographic location of a voter, their vote is of equal importance to anybody else's. Direct democracies allow voters to recognize the power of their individual vote and encourage citizens to vote on election day despite the inconvenience.

Finally, many argue that the Electoral College is inconsistent with other elections in the United States. In 1913, with the passage of the Seventeenth Amendment, state elections were changed to be based on a popular vote and not via representatives. This led many to argue that just like state and local elections, federal elections should be determined by a popular vote.¹⁵ Nevertheless, even after considering the various flaws in the United States' current electoral system, one must also consider its benefits to determine if the Electoral College is worth preserving.

VI

Arguments for the Preservation of the Electoral College

Even though the vast majority of reasons for establishing the Electoral College no longer exist or apply today and despite the fact that the aforementioned arguments in favor of its abolition have merit, the Electoral College is still a vital political system. It maintains the concept of federalism, minimizes potential fraud in elections, and disparities between states' populations are already addressed by other political processes. Abolishing the Electoral College would only lead to a greater upending of necessary political institutions in the United States. To begin with, it is obvious that the reasons for voters not being informed or educated are no longer valid today, as nationwide media, nationalized political debates, as well as virtually unlimited access to news via technology have made it virtually impossible for a voter to be completely uneducated. In other words, the Founding Fathers' fear of uneducated voters instituting mob rule is highly unlikely in current times due to advancements in education. Thus, the idea of educated and well-informed electors voting instead of indi-

viduals is not applicable today.

However, even though most of the original reasons for the Electoral College, such as the fear of uneducated and uninformed voters instituting mob rule, no longer apply today, many argue that the federalist principles still do and any abolition would threaten such principles. For example, the principle of federalism that was invoked in the creation of the Electoral College is still relevant today. Federalism is illustrated in the current system, as each individual state is able to determine, free from the federal government, how they allocate their electoral votes. For example, Maine and Nebraska have decided to allocate their electoral votes proportionally rather than on a winner-takes-all basis. The notion of federalism has been upheld in the Supreme Court numerous times. In 1892, in *McPherson Vs. Blacker*, William McPherson Jr., an elector, sued Michigan's Secretary of State, Robert R. Blacker, against Michigan's law that allowed the electoral votes of the state to be allocated by district.¹⁶ The Supreme Court upheld Michigan's state law, thereby reinforcing the idea of state power. Any federal breach of state power could result in other principles being uprooted that should not be. For example, without the principle of federalism, the concept of separate state and federal taxation could be abolished. As a result, states would lose their right to determine how much money they allocate to their preferred causes. Similarly, if the Electoral College were to be abolished, the US Senate would, according to the same reasoning, have to be abolished as well. Although representatives in the House of Representatives are based on population, each state is represented by two senators. If the reason for getting rid of the Electoral College is to ensure that every vote counts equally, the concept of each state having the same number of senators regardless of population, must be terminated as well. Indeed, if direct democracy is the most equitable, why not have a referendum on every act of Congress to ensure true representative equality.

Furthermore, the preservation of the Electoral College is needed on a practical level. If the election were to be based on a strictly popular vote, any claim of fraud would be followed by a recount of every single vote cast in the country. Considering the recount of Florida in 2000 that was conducted over a select number of counties, a recount of the entire country would invariably lend it-

self to even more inefficiency and fraud. In essence, the Electoral College minimizes the risk of fraud and allows for the election to be as structured as possible.¹⁷ Lastly, even though those who support the abolition of the Electoral College refer to population disparities between states, which devalues and overvalues votes in different states, other political processes address this issue. Because each state's number of electoral votes is proportional to the sum of its two senators and its number of representatives in Congress, the national census every ten years grants more populous states more electoral votes. This means that California has the most electoral votes, making it the most represented state—despite the fact that individual votes are insignificant. Therefore, even though the original reasons for the establishment of the Electoral College are not completely applicable in the modern era, the principles enshrined in the Electoral College make it essential both practically and ideologically.

VII

Is it Even Practical to Abolish the Electoral College?

As demonstrated above, the debate surrounding the status of the Electoral College comes down to whether one believes that the original federalist principles of the Electoral College would be threatened by its abolition. However, in a more practical sense, even if the country were to abolish the current electoral system, the question remains whether it is even realistically possible for the system to be uprooted. Because the Electoral College is established in the United States Constitution, the only way to abolish it would be through a constitutional amendment, which would require a two-thirds majority vote in Congress and ratification by three-quarters of the states. That being said, it is no secret that over one-quarter of the states benefit greatly from the Electoral College and obtain more representation through the current electoral system than they would under a direct democracy. Therefore, even if the majority of Americans were in favor of the abolition of the Electoral College, it is highly unlikely that it would ever be abolished.

END NOTES

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Judicial Activism as a Force for Critical Social Reform

Benjamin Golani '23

The legalization of same-sex marriage has an extensive history in the United States. On October 10, 1972, in the case of *Baker v. Nelson*, the Supreme Court ruled that it is constitutionally permitted to construe a marriage statute to restrict the distribution of marriage licenses to same-sex couples.¹ On June 26, 2015, the Supreme Court overruled *Baker v. Nelson* in *Obergefell v. Hodges*, ruling that the Fourteenth Amendment requires all states to recognize and permit same-sex marriages.² Although the ruling of *Obergefell v. Hodges* successfully overturned the precedent established by *Baker v. Nelson* with a 5–4 majority, Chief Justice Roberts formulated an insightful case against this ruling in his dissent. The Justice's dissent features the following statements:

“When decisions are reached through democratic means, some people will inevitably be disappointed with the results. But those whose views do not prevail at least know that they have had their say, and accordingly are—in the tradition of our political culture—reconciled to the result of a fair and honest debate. In addition, they can gear up to raise the issue later, hoping to persuade enough on the winning side to think again. That is exactly how our system of government is supposed to work.”³

The Justice continues:

“By deciding this question [of legalizing same-sex marriage] under the Constitution, the Court removes it from the realm of democratic decision. There will

be consequences to shutting down the political process on an issue of such profound public significance. Closing debate tends to close minds. People denied a voice are less likely to accept the ruling of a court on an issue that does not seem to be the sort of thing courts usually decide. As a thoughtful commentator observed about another issue, ‘The political process was moving ... not swiftly enough for advocates of quick, complete change, but majoritarian institutions were listening and acting. Heavy-handed judicial intervention was difficult to justify and appears to have provoked, not resolved, conflict.’ Indeed, however heartened the proponents of same-sex marriage might be on this day, it is worth acknowledging what they have lost, and lost forever: the opportunity to win the true acceptance that comes from persuading their fellow citizens of the justice of their cause. And they lose this just when the winds of change were freshening at their backs.”⁴

Justice Roberts argues that the legitimacy of decisions made within a democratic regime is derived from their basis in fair and honest debate and lack of perpetuity. Consequently, the ruling of *Obergefell v. Hodges*—on the (then) contentious issue of same sex-marriage—was problematic because it removed the decision from the democratic process and placed it under the purview of the Supreme Court, an institution with limited representative input. Justice Roberts reasons that the Court’s ruling was to the disadvantage of proponents of the legalization of same-sex marriage: when support for the legalization of same-sex marriage was rising at a favorable rate, democratic input was ultimately discounted in favor of the despotic Supreme Court.

In his dissent, Chief Justice Roberts writes in accordance with the philosophy of judicial restraint, a procedural approach to judicial review that urges judges to limit their interference in legal issues and leave legal determinations up to the elected branches of government when possible.⁵ Justices who rule by judicial restraint will typically invalidate legislation or executive orders only when it clearly violates the Constitution. Judicial restraint is a philosophy that generally benefits the democratic process: it ensures that the Supreme Court refrains from interfering with the democratically elected legislature and places a limit on non-elected judges. However, judicial restraint can be problematic in cases where policy change is necessary but challenging to obtain. In fact, it

is often necessary for the Supreme Court to set aside judicial restraint and overrule a harmful policy to enable social change when it would otherwise be unattainable.⁶

The history of judicial restraint encompasses several landmark Supreme Court cases, each representing the subordinate role of the Supreme Court in contentious legal affairs, particularly those concerning state legislatures.

One case which was instrumental in establishing the precedent of judicial restraint was *Plessy v. Ferguson*, in which a seven-eighths Caucasian and one-eighth African American resident of Louisiana was placed in a colored coach on a railway line and claimed that the mistreatment he experienced violated the Thirteenth and Fourteenth Amendments.⁷ In writing the Court's Opinion, Justice Brown establishes that the plaintiff's claim is based on the false presumption that legal separation between races is meant to discriminate. Justice Brown contends that the enforced separation of races on the railway does not violate the Fourteenth Amendment because it fails to "abridge the privileges or immunities of citizens of the United States... deprive any person of life, liberty, or property without due process of the law, or deny to any person within their jurisdiction the equal protection of the laws." Thus, the case is not based on any form of discrimination, but on whether or not the statute of Louisiana is a "reasonable regulation."⁸ Justice Brown concludes that the state of Louisiana is "at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their public comfort, and the preservation of the public peace and good order."⁹ Justice Brown employs judicial restraint in this decision: he argues that the Louisiana statute does not conflict with the Constitution and then cedes the legal right to enforce 'separate but equal' accommodations to the state, indicating that the issue in question is not within the jurisdiction of the Supreme Court.

The landmark case of *Griswold v. Jackson* exhibits not only the judicial restraint similarly employed by Chief Justice Roberts in his *Obergefell v. Hodges* dissent and Justice Brown in *Plessy v. Ferguson*, but the conflicting philosophy of judicial activism. In *Griswold v. Jackson*, in a 7–2 decision, the Court ruled that the Constitution prohibits state restrictions on contraception. The case,

authored by Chief Justice Douglas, contains a concurrence by Justice Goldberg, which is best characterized as judicial activism. Justice Goldberg writes that the ‘concept of liberty (in the Ninth Amendment)... embraces the right of marital privacy;’¹⁰ a right that is not explicitly mentioned in the Constitution. Justice Golberg establishes that the right to marital privacy is protected by certain penumbras within the Bill of Rights. Based on these penumbras, Justice Golberg reasons that it is within the jurisdiction of the Supreme Court to strike down the Connecticut law prohibiting the distribution of contraceptives. In doing so, Justice Goldberg supports, in the words of Chief Justice Roberts, “shutting down the political process on an issue of profound public significance.”¹¹ Thus, it can be said that Justice Goldberg favors the activist approach, which lends itself to expedient policy change over the inefficient democratic process.

In the same case, Justice Black, joined by Justice Stewart, employs the philosophy of judicial restraint in his dissenting opinion. Justice Black prefaces his argument by establishing that his view on the Connecticut law is not based on a “belief that the law is wise or that its policy is a good one;” in fact, Justice Black writes that the only aspect of his fellow justices’ opinion to which he *can not* subscribe is their conclusion that “the evil qualities they see in the law make it unconstitutional.”¹² Justice Black argues that the derivation of a ‘right of privacy’ from the Ninth or Fourteenth Amendments is too vague to be considered a legitimate basis for ruling against the Connecticut law. As the Justice writes, “there is no provision of the Constitution which either expressly or impliedly vests power in the Court to sit as a supervisory agency over acts duly constituted legislative bodies and set aside their laws because of the Court’s belief that the legislative policies adopted are unreasonable, unwise, arbitrary, capricious, or irrational.”¹³ Even after expressing his categorical disapproval of the Connecticut law, Justice Black argues that the Supreme Court must assume a more reserved approach and avoid nullifying legislation passed by democratically elected state governments when the legislation does not explicitly conflict with the Constitution, and in doing so, employs the philosophy of judicial restraint.

The renowned landmark case of *Roe v. Wade* offers a definitive account of ju-

dicial activism which conflicts with the comparatively moderate approach of judicial restraint. In his Opinion, Justice Blackmun goes to great lengths to document the history of abortion—from Ancient Greece to the modern era—almost as if to establish abortion as a case of *stare decisis* in itself to reduce the significance of the fact that abortion is not explicitly addressed in the Constitution.¹⁴ Justice Blackmun then draws on the Ninth and Fourteenth Amendments and the case of *Griswold v. Connecticut* to conclude that the right to privacy, based on various emanations and penumbras within the aforementioned sources, encompasses the right to an abortion.¹⁵ However, Justice Blackmun does not come across as resolute in his reasoning: he explicitly recognizes that abortion is a special case that can not be determined solely based on whether it concerns a woman's privacy. The Justice even goes to great lengths to address the legal issues arising from the fact that abortion concerns a fetus, which may or may not be legally considered a 'person.' Not only does Justice Blackmun base his stance on rights allegedly implied by the Constitution, but he is even unwilling to conflate abortion with other unspecified rights which concern privacy.¹⁶ Given his opposition to the Texas statute without mention of an explicit Constitutional source, Justice Blackmun employs the philosophy of judicial activism in his decision, thereby exhibiting the significance of the activist approach in effecting social change.

The contrasting philosophies of judicial conduct exhibited in the aforementioned cases of *Obergefell v. Hodges*, *Plessy v. Ferguson*, *Griswold v. Jackson*, and *Roe v. Wade* beg the question: which approach is superior—judicial activism or judicial restraint?

Further analysis of the legacy of judicial activism demonstrates that while judicial restraint may be theoretically advisable, judicial activism is often essential to creating progress where it is unlikely to occur. One such case is *Brown v. Board of Education*, in which African American students denied admittance to certain public schools based on laws permitting segregated educational facilities argued that such segregation violated the Equal Protection Clause of the Fourteenth Amendment. In a unanimous vote, the Supreme Court ruled that the 'separate but equal' doctrine (established in part by the aforementioned case of *Plessy v. Ferguson*) was unconstitutional and in violation of the Equal

Protection Clause.¹⁷ In this case, the Supreme Court overruled the law-enforcing authority of several states, including Delaware, Kansas, South Carolina, and Virginia. The judicial restraint of Chief Justice Roberts could not have been applied to this case; given the widespread support for discrimination among reactionary segregationists in the 1950s, the issue of segregation in public schools was far too contentious to be subject to the indecisive democratic process. Therefore, even if the Supreme Court overstepped its boundaries, it did so for a worthy civil rights cause. The shortcomings of judicial restraint are quite apparent in this case; the Supreme Court was justified in striking down state legislation for a cause that the democratic process could not have adequately addressed.

Another case concerning access to education, *United States v. Virginia*, once again reveals the inadequacies of judicial restraint. In *US v. Virginia*, the Virginia Military Institute sought to uphold its tradition of admitting only men, and when the VMI's policy was challenged as unconstitutional and in violation of the Equal Protection Clause of the Fourteenth Amendment, the university offered to establish the Virginia Women's Institute for Leadership, a 'separate-but-equal' parallel program for women, in compensation. When taken to the Supreme Court, the Court held that the exclusively male admission policy of the Virginia Military Institute was unconstitutional and that the VMI's admission policy violated the Fourteenth Amendment's Equal Protection Clause.¹⁸ This ruling once again demonstrates that it is sometimes necessary for the Court to override state legislation to uphold civil rights—in this case, equal access to education.

Another case that attests to the importance of judicial activism is *Lawrence v. Texas*, in which the Supreme Court invalidated sodomy laws across the United States, making same-sex sexual activity legal nationwide. The Supreme Court decision struck down a Texas statute responsible for criminalizing same-sex sexual activity, ruling that the statute was in violation of the Due Process Clause of the Fourteenth Amendment.¹⁹ Although the Court's decision required it to negate a state law, the decision marked a historic day for the evolution of civil rights in the US, particularly at a time when support for the legalization of same-sex marriage was rising considerably. For this reason, Chief

Justice Roberts' statements regarding the role of the Supreme Court are fundamentally errant; in the case of *Lawrence v. Texas*, the Court recognized that Constitutional penumbras protect the right to same-sex sexual activity and accordingly struck down the Texas statute.

A thorough analysis of judicial history demonstrates that the judicial restraint championed by Chief Justice Roberts in his *Obergefell v. Hodges* dissent is virtually untenable. While theoretically, judicial restraint is perhaps more democratic, the history of the Supreme Court attests to the fact that the very policies judges have overturned when employing judicial activism are far more undemocratic than the philosophy of judicial activism itself. As exhibited by the aforementioned cases of *Brown v. Board of Education*, *United States v. Virginia*, and *Lawrence v. Texas*, the Court has repeatedly ruled against state legislatures to advance civil rights causes related to opposing segregation and enabling equal access to education, thereby invigorating the United States' purported democratic culture. Rather than assuming a removed, effectively subordinate role in the United States government, the Supreme Court must assume an activist approach when necessary, serving to bring about critical social reform where it would almost certainly never occur otherwise.

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***Disengaged Engagement:
Ethics of Fiction and Documentary Photography in
TJ: Johannesburg Photographs 1948–2010/Double Negative
by David Goldblatt and Ivan Vladislavić***

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I

Fiction: Refraction of the Factual?

In an essay titled “Mrs. B” from *The Loss Library and Other Unfinished Stories* (2012), South African writer Ivan Vladislavić reflects on his failed attempt to write historical fiction based on the life of the eponymous Mrs. Burden, wife and traveling companion of the American naturalist William Burden: “Is it fair to weave fictions out of the lives of real people? How else are fictions to be made? All fiction is the factual refracted. Is the degree of refraction, that is, the extent to which the factual is distorted, the mark of accomplishment?”¹

The first question addresses Vladislavić’s initial anxiety about using the 1926 book *Dragon Lizards of Komodo*, detailing William Burden’s expedition to Indonesia, as a source material for a short story. Would the story, he wondered, distort the truth of this historical figure? Would it be unfair to Mrs. Burden to fictionalize, and, thereby, somewhat falsify her portrait? The ethical question seems almost a rhetorical one, however, for it is not presented as a dilemma to be pondered and debated, but answered immediately in the affirmative—“All fiction is the factual refracted”—and then qualified in the final question. It is the degree of refraction, the distance from the source and the degree of distor-

tion, that defines a successful work of fiction. The scope is thus enlarged from the subgenre of historical fiction to all fiction.

His answer accomplishes two things: it defines fiction, and it simultaneously defends the right to fiction as the right to “refract,” that is, to distort or deflect, the factual or the “real.” The choice of words is curious, however, for the term “refract”, unlike “distort,” appears free of any negative connotation of falsification. From Latin *refringere*, to refract is to break open, break up, or force back. In physics, refraction indicates a “change of direction of a ray of light, sound, heat, or the like, in passing obliquely from one medium into another in which its wave velocity is different.”² In ophthalmology, it refers to the ability of the eye to “bend” light that enters it, so as to form an image on the retina, a process that enables perception. The verb “refract” has an aura of neutrality: it connotes a matter-of-fact process that occurs naturally.

The quickly—perhaps too quickly—resolved ethical problem of the right to literature, defined here as the right to fiction via refraction, is revisited and given a more extensive treatment in Vladislavić’s novel *Double Negative* (2010). Set in pre- and post-apartheid South Africa, the *kunstlerroman*, or portrait of an artist, follows a recent college dropout, Neville Lister, from the 1980s to the 2010s, and traces his development as a photographer. Comprised of three parts, it traces, in the first part, Nev’s misadventures as a confused young man, who is sent by his father to spend a day with the renowned photographer Saul Auerbach. The second part, set in the decade after the fall of apartheid, features Nev as a commercial photographer, freshly returned from a ten-year stay in England, where he fled to avoid army conscription. The final section shows Nev still as a commercial photographer, but also a budding artist, who has just had his first gallery show.

Saul Auerbach, one of two photographers featured in this novel, is a thinly veiled fictionalized version of the celebrated South African photographer David Goldblatt. In *Double Negative*, Vladislavić paints a fictionalized portrait of Goldblatt as Saul Auerbach, attempting to capture some sort of truth about this historical subject, but Vladislavić does not stop there. He also introduces another, younger photographer Neville Lister, who shares qualities with Gold-

blatt, to double the narrative portrait through time and to “refract” Goldblatt’s biography. Does he have the right to do this? The ethical questions underlying the right to *fictionalize the factual* are at the center of this work.

Double Negative was originally published in a boxed set titled *TJ/Double Negative: Johannesburg Photographs 1948–2010*. Vladislavić’s novel was packaged alongside David Goldblatt’s retrospective album of photographs, documenting street life of Johannesburg from the 1950s to the 2010s. The two books—a collection of mostly black and white photographs and the novel—form an unusual diptych.

For Vladislavić, this was not his first foray into visual arts. Prior to this project, Vladislavić edited books on architecture and art, collaborated with artists and photographers, and his earlier literary works incorporated visual arts, including photography, to explore the process of documentation. For example, his *Portrait with Keys* (2006), dubbed “a sequence of documentary texts” on Johannesburg, is a collection of 138 short pieces whose primary subjects are the city and the artists documenting the city. But it is only in the present project, focused on the city of Johannesburg and the role photography and the written wordplay in documenting city life, that the two forms—the visual and the literary—meet each other face-to-face (or back-to-back) in this boxed set, collectively offering an extended meditation on what Vladislavić dubbed *the right to refract the factual*.

II

The Ethics of Documentary Photography

The first page of *TJ: Johannesburg Photographs 1948–2010/Double Negative* announces the project in the following way:

This book of photographs is the visual element of

TJ | Double Negative

by David Goldblatt and Ivan Vladislavić

The cover of each book (Fig.1) is sliced by a black band in the middle, with

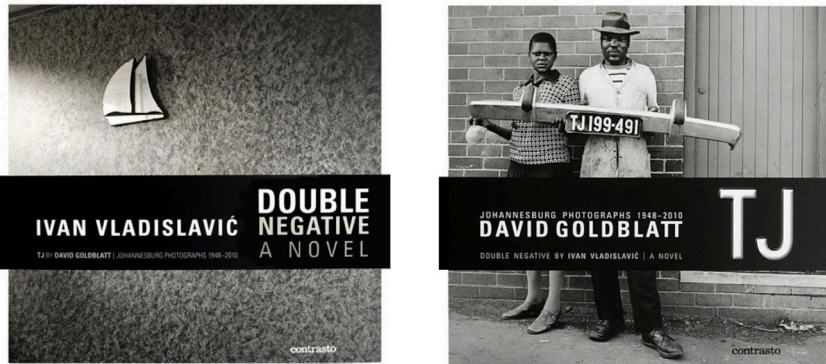


Fig. 1

white lettering inscribing the title of each book in a large font, and the title of the other book in a smaller font. The two cover pages contrast with the black and white spines of each book: TJ (a moniker for Johannesburg) is inscribed in black ink, and *Double Negative* in white. This project was not exactly collaborative, in the strict sense of the word, for *Double Negative* was written to some extent in response to Goldblatt's photography. The design is part of a larger process of doubling and reframing—as if to show the process of refraction of the factual as it changes the medium from the written word to the photographic print. The possibility of reversal displaces the presumed hierarchy of power or dominance between visual art and the art of storytelling.

But in what sense are Goldblatt's photographs the “visual element” of the novel? What is the relationship between the documentary style of Goldblatt's photography and Vladislavić's fictionalized portrait of a photographer?

The first image in Goldblatt's book, prefacing the first section dated “1950s–1960s,” is a portrait of a portrait photographer (Fig. 2).

This self-referential gesture makes us immediately aware of the person behind the camera, whose face in this picture is, literally, obscured from view by his own arm, as he peers into the black box, unaware of being photographed. Unlike a photojournalist, a portrait photographer inhabits the borderline between fiction and document. A portrait is staged, and often meticulously pre-



Fig. 2 “Portrait photographer, Braamfontein. 1955”

pared for, but it also captures and documents a moment in time, and, therefore, participates in the mechanical process of recording. The figure of a portrait photographer is, initially, the major link between both books. But very quickly, the idea of portraiture is broadened. After the initial opening shot, the rest of the album is a portrait of the city: of the people who live in it, and of the architectural and geographic landscapes.

Taken together, the album and the novel, presented as a single unit, attempt to address and correct a claim made by cultural critic Susan Sontag in *On Photography* (1969)—a claim she later revisited and partially debunked in *Regarding the Pain of Others* (2003). In comparing image and text, Sontag posits that “the ethical content of photographs is fragile,” for the camera’s rendering of reality hides more than it discloses. Text, on the other hand, Sontag argues:

seems a less treacherous form of leaching out the world, of turning it into a mental object, than photographic images [...] What is written

about a person or an event is frankly an interpretation, as are hand-made visual statements, like paintings and drawings [...] The “reality” of the world is not in its images, but in its functions. Functioning takes place in time, and must be explained in time. Only that which narrates can make us understand.³

Because narration takes time, Sontag writes, it forces us to relate to the subject matter in a different way than the immediacy of the visual image: a photograph is an image frozen in time. Written word is a more ethical way of representing the subject. A naked image, an image unaccompanied by words, risks being decontextualized and being used for dubious ends.

If we were to apply Vladislavić’s and Sontag’s criteria as a litmus test, how successful is the collaboration between a documentary photographer, Goldblatt, and a novelist, Vladislavić, at not just addressing but *redressing* the purported propensity of photography to devoid the subjects it represents of emotional and moral charge?

III

Is the Ethical Content of Photographs Fragile?

In the opening pages of *Double Negative*, we find out that Neville Lister drops out of college because he wants “to be in the real world” but isn’t “sure how to set about it.”⁴ Burdened with bourgeois guilt, he decides to “get his hands dirty” and lands a part-time job as an assistant to a man who “paint[s] lines and arrows in parking lots.”⁵ Alarmed by his son’s withdrawal from college, and worried that “the bottled-up rage against the world”⁶ would get him involved in politics, Nev’s father arranges for him to spend a day with photographer Saul Auerbach. This is the formative moment in Nev’s life. The day before his appointment, Nev looks at a book of photographs by Auerbach, marveling at how “worlds had been compacted into them and sealed in oil”, and is both mesmerized by and deeply suspicious of photography’s power to capture and immobilize reality. Years later, he recollects:

It was disturbing to see my own world presented so coldly. For the first time, the houses I lived in...were at the right distance to be grasped fully. They looked so solid, they were so there, I felt I knew them all. And yet there was a levity to them as well, because a photograph is a flimsy thing when you compare it to the world. It's always on the verge of floating away or turning into ashes. You don't want to go waving a lighter in that vicinity.⁷

Neville realizes that photography offers the distance necessary to grasp and see, but it also makes the real and familiar somewhat unreal and impersonal; photographs, in young Neville's mind, become cold mechanical reproductions of the world, whose fragility remind us about the brittleness and impermanence of our own world.

Looking at the book of photographs, he also tries to imagine the man behind the camera: Could he ever discover who he is and what his work stands for just by looking at his photography? What are the photographer's intentions, he wonders. "What was he hiding? What had he missed?"⁸ After reading reviews of Auerbach's work that praise the photographer for his technical proficiency, a dispassionate eye, and a vision that transcends politics, yet enables "a deep engagement with his subjects," Nev wonders "could one be dispassionate and deeply engaged at the same time?"⁹, articulating what in *Literature and the Right to Death*, Maurice Blanchot called *disengaged engagement*. Both *Double Negative* and *TJ: Johannesburg* attempt to answer this very question.

When Neville meets Auerbach in the morning, he finds out that they will be joined by a British journalist Gerald Brookes, "obsessed with the responsibilities of good people in bad situations", who has come to South Africa to write a report on the apartheid. The trio sets out to explore Johannesburg and when they reach Kensigton—an area with houses "that went back to the beginnings of the city, that had survived the cycles of slum clearance and gentrification and renewed decline"¹⁰—they sit on a hill from which they get a panoramic view of the city. "The land lay like an open book," notes Nev. (Fig. 3)¹¹

As they scout Kensington for a good place to take a picture, Auerbach turns to

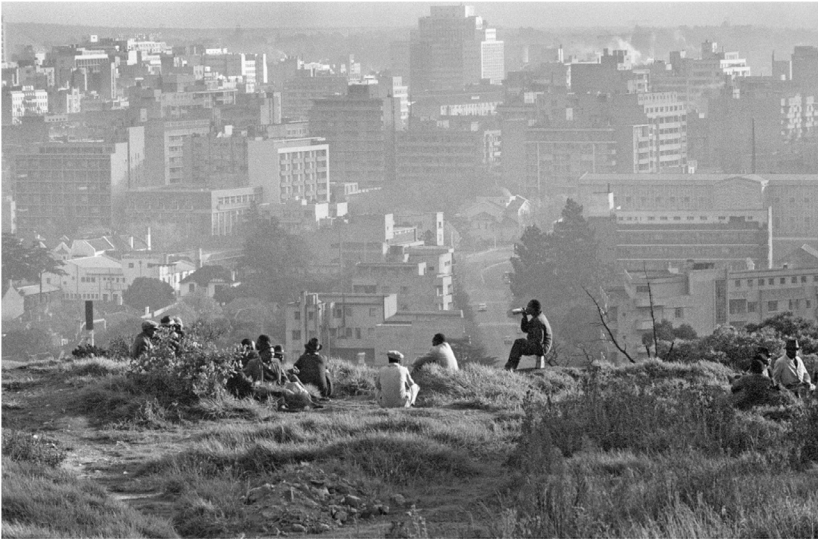


Fig. 3 “Shebeen, Highlands. May/June 1961”

Nev to reflect on his craft:

You think it would simplify things, looking down from up here, but it has the opposite effect on me. If I try to imagine the lives going on in all these houses, the domestic dramas, the family sagas, it seems impossibly complicated. How could you ever do justice to something so rich in detail? You couldn’t do it in a novel, let alone a photograph.¹²

Auerbach is aware that photographs are only able to scratch the surface, so to speak. A picture of a house, for example, can only tell us so much about its inhabitants. Can a picture, he wonders, ever do justice to what it purports to represent? Can a photograph of a façade reveal to us what hides behind the photographed wall?

For Brookes, a journalist, everything looks interesting from up there. “Everyone has a story to tell”, he quips. But Auerbach disagrees, by noting that “some stories are better than others” because “they reveal something new” or “confirm something important—or unimportant.”¹³ To test Brookes’ idea, they in-

vent a game: each of the three will pick a random house, which they will then visit to see if they can find something “worth photographing.”¹⁴ That day they manage to get into two houses selected by the photographer and the journalist before the light wanes, and they do, indeed, find something interesting to photograph.

In the first house—a shack—a small, delicate woman opens the door and Auerbach talks to her in Afrikaans and gets her permission to enter the house and take her portrait. Nev immediately questions their right to enter this woman’s house, as she is alone while her husband is at work: “Who we were was clear. We were white men. We would do as we pleased.”¹⁵ This makes him feel doubly embarrassed: he feels ashamed of being there as an unwelcome intruder, and he feels shame on the woman’s behalf, for being unable to prevent them from disturbing her peace. The sight of Auerbach, setting up the tripod, “telescoping rods and tightening thumb nuts” makes Nev think of a film assassin.

This feeling of imposition and voyeurism dissipates only years later, when he comes across the picture in Auerbach’s album *Accidental Portraits* that he picks up in London. That picture of Veronica, he says, agreeing with the critics, is one of Auerbach’s best, because it captures the contradictory qualities of technical proficiency, a dispassionate eye and a vision that transcends politics and yet enables “a deep engagement with his subjects.”¹⁶

In Nev’s description of the photograph, Veronica is portrayed in a tender way with two of her surviving triplets: “Their eyes are open, their fingers are curled, and for all their delicacy, they look vital and ready to grow.”¹⁷ Behind the mother is a picture of the triplets, placed on a wooden crossbeam: a picture-within-a-picture, which shows the deceased third baby. The “irreplaceably absent” infant is memorialized in Auerbach’s photograph, living on in this spectral manner. The photograph makes Neville realize that the embarrassment he felt for the woman seemed entirely misplaced.

In the novel, the picture of Veronica is accompanied by a paragraph-long caption:

Veronica Setchedi and her children, Joel and Amos, the surviving pair of a set of triplets, in their backyard shack in Emerald Street, Kensington, 1982. The third child, pictured in the smaller photograph, died the previous year from inhaling the poisonous fumes of a brazier. Veronica's husband Zeph is employed as a scooter driver by a large bank. They receive no special assistance from his employer or the state.¹⁸

When Nev meets Auerbach some twenty years later, Auerbach comments: "a photograph is an odd little memorial that owes a lot to chance and intuition"¹⁹, and he tells him that he still keeps in touch with Veronica: a statement of "deeper engagement" with the subject that extends beyond photography. The idea of extension is further demonstrated in the following scene. In the second house, after giving us the description of Auerbach photographing Mrs. Ditton, using language steeped in symbolism ("The shutter fell through the moment like a guillotine"), Vladislavić immediately reframes this point of view through Neville's eyes:

Through the bay window, I had a new view of the lounge. Standing there alone, the camera looked like a detached observer, an expert on a fact-finding mission, with its chin up and its eye steady, drawing its own conclusions. Auerbach entered the picture and began to dismantle the device, while Mrs. Ditton floated on the edge of the frame [wanting them to leave].²⁰

Nev is reframing the photograph that Auerbach has just taken: doubling the verbal portrait of the photograph with the description of the "after the act" moment. The portrait that Vladislavić now metaphorically takes includes the space outside of the frame of the portrait of Mrs. Ditton. The bay window becomes the other frame; the photographer enters the frame, now packing up the camera, personified here as a "detached observer", independently drawing its own conclusions. The authority of the photographer is usurped by the recording device itself, which has a life and mind of its own.

Finally, those same photographs reappear once again in the final part of the novel when after his return to South Africa in 1994, after the official fall of the



Fig. 4 “Concession store (shop catering especially to Black miners)
interior, Crown Mines. May 1967

apartheid regime, Neville goes to a gallery retrospective of Auerbach’s work. Desperately wanting to reeducate himself on what happened during the decade he spent away from his hometown, he sums up his impressions in the following way: “it was a more reliable record of the past than any history book.” In the end, *Double Negative* is an homage to David Goldblatt as a photographer who is conscious of his *ethical position* vis-à-vis the subjects he photographs. Nev isolates three elements that make him reconsider his initial reservations about the kind of documentary photography Auerbach practices.

The first redeeming feature of Auerbach’s photographs is that his pictures of people, but also of buildings, landscapes, and objects capture ordinary life in Johannesburg. Auerbach’s work is a subdued, subtle kind of photography that focuses on the quotidian and is neither sensationalist nor overly sentimental. (Fig. 4) This kind of photography is defined by Nev as evidence or proof that obscures or distorts the truth much less than historical narratives.

The second corrective aspect of Auerbach’s photography is that the photographs, arranged in the gallery sparsely on the white walls, look like a “disassembled book.”²¹ The photographs acquire qualities of a fragmented text.



Fig. 5 “Robert Molfie was born in Soweto in 1979. His mother ran a shebeen, the “chilling place for the Guncrabs Gand. Robert became used to seeing guns at an early age. In 1992 he was arrested twice for housebreaking and received two canings. By 1994 he was a fulltime criminal and for the next six years he stole, robbed and shot, though he never raped. He took drugs 365 days per annum. Then in January 2000 he and a friend saw a woman on a sidewalk carrying a laptop. Robert was unarmed but ‘I just put my hand under my T-shirt and told her, “you don’t move; I will shoot you.” They robbed her and were seen by police. Robert ran into this old sanitary lane. He tried to climb over this wall but a recent gunshot wound had weakened him. He was caught and served four of a five year sentence. Released in 2004, he had stopped taking drugs, embraced Islam and works for a crime prevention initiative. Turfontein. 20 February 2010.”

They are contextualized because they are accompanied by detailed captions, “stacked unobtrusively in the corners of the rooms.” They provide context and tell a story, by borrowing literary elements: caption, descriptive paragraph, narration. Without a caption, a blurb, or the artist’s statement, the photographs risk becoming beautiful objects—images that overtake personal memory, and are an imposition of the visual. For his part, David Goldblatt, like Auerbach, takes a number of steps in *TJ: Johannesburg* to frame and contextualize his photography, by adding captions, descriptive paragraphs that comment on the images of people and places he photographs. (Fig. 5)

Finally, the show offers a visual rendering of the transformation of the city through time in a self-referential way. Auerbach returns to the same places to retake a picture of buildings and people. (Figs. 6a and 6b) As time enters the process of picture-taking, these double-takes—“now and then” diptychs—



*Fig. 6a Stephen Msibi with his sons and their nieghbor Monica Moklanyane dancing,
2583 Pimville, Zone 2, Soweto. 1970*



*Fig. 6b “The house built by the late Stephen Msibi’s sons at 2583 Pimville,
Zone 2. John, the son who lives in it, stands at the gate with his neighbour,
Monica Moklanyane. 19 Februaruy 2004”*

create real narratives. They also function as a photographic double negative, a result of double exposure: a superimposition of images over the original, exposing something to light for the second time to create a palimpsestic image that captures the passing of time. Through this process of superimposition, the images are thus re-presented and re-framed, recasting history as a living history, an interaction of the past instance when the photograph was taken and the present moment Neville experiences during the gallery walk.

IV

Disengaged Engagement and Literary Language

Perhaps the most interesting aspect of Vladislavić's novel is its conceptual framing—the doubling of photographers. While he is giving us the fictionalized portrait of Goldblatt—who is portrayed as an exemplary photographer, conscious of his status as a documentary photographer but almost in an unconscious, matter-of-fact way—this portrait is countered by the rise of Neville as a photographer. In the second part of the novel, Nev, a commercial photographer, remains suspicious of photography because of its ambiguous status as an object that can both help us recollect a memory, but also replace it. His photography for magazines and catalogues is purely utilitarian, something that he likes because it is unambiguous in its intentions, unlike documentary photography:

Sometimes photographs annihilate memory; they swallow the available light and cast everything around them into shadow. Two of Saul Auerbach's images were like shutters on my mind: Veronica in the yard in Emerald Street, Mrs. Ditton in her lounge in Fourth Avenue. Dense with my own experience, but held there in suspension, in chemically altered form. If I could seize them for myself, my time and place would spurt like juice between my fingers. But how to reach through the frame?²²

For Nev, the memory of the day he spent with Auerbach is overpowered and obscured by Auerbach's photographs.

While the double portrait in *Double Negative* shows how photography can increase its ethical content through inclusion of detailed descriptions of photographs and of the photographer's craft, these quasi-journalistic passages are juxtaposed with the explosively metaphoric language of the novel to expose the "treachery" not just of the image but also of language. In *Double Negative*, the portrait of the photographer and the practice of photography—two central structural features of this *Kunstlerroman*—aim to drive a wedge into Sontag's polemical claim and show not just how photography can have a more ethical content, but also to show that fiction, and language more broadly, has its own ethical problems to acknowledge.

The self-aware, unassuming kind of photography that is valorized in *Double Negative* contrasts with the explosively metaphoric and ironic language of the novel. The language the narrator Neville uses is full of metaphors and similes, such as the following: "Gerald Brookes was a red stump of a man with a bald head, curiously creased in the middle like an apricot. The lenses of his black-rimmed glasses were as thick as metaphors"²³; "Darkroom of my own memory"²⁴; "The new South Africa was a bewildering place...The parenthetical age had dawned, the years of qualification and revision, when the old versions of things trailed behind the new ones in brackets, fading identities and spent meanings, dogging the footsteps of the present like poor relations."²⁵

The sparse and concise descriptions of photographs in the novel and in *TJ* stand in sharp contrast to the abundant overflowing of words. Their literalness is a welcome respite from the symbolism and metaphoricity of the florid literary language, which Neville acknowledges when he sees a photo of a body blown up by a bomb in a restaurant restroom. The photograph is accompanied by a sign: "BE ON THE ALERT." He observes that the man whose mutilated body he was staring at "had not been run down by History or the Movement: he had been blown up by a bomb...There was nothing metaphorical about it. Thinking in metaphors is not always a good idea."²⁶

If the cumulative effect of Auerbach's photography is its ability to capture the moment without drama, what is the cumulative effect of these metaphors, including the master metaphor of "double negative"? Are the literary devices

hyperbolic exaggerations whose rhetorical effect is to expose the literary status of the novel as a form of distortion that departs too far from its source material, risking becoming a caricature rather than a faithful rendition? Or, is this excessive metaphoricity ironic?

Irony, broadly understood as a juxtaposition of what appears on the surface to be true and what is actually true, is the literary device that gets the last word in the novel. Nev's development as a photographer who breaks through his suspicion ends with a chapter titled "Small Talk", composed of an extended interview with Neville—now, himself, an emerging artist photographer. The answer may lie in one of the final dialogues of the novel. Janie, a young blogger who interviews Neville for a profile on her blog, wants to be a "brand ambassador for herself." Neville, in turn, is stuck: "I cast around for a story, some credible version of myself to impart, but I couldn't find one". His wife, Leora, quips:

"She was being ironic, obviously," she said.

"Yes"

"And so are you."

"I guess."

"So the whole thing is ironic."

"Including the ironies."

"Maybe they cancel one another out then," Leora said, "like a double negative."²⁷

A double negative can imply both a cancelling out of a negation or creating an intensification through grammatical "incorrectness" ("I didn't see nothing") or a rhetorical effect, such as in a litote (as in "She is not unattractive.") used for emphasis. In photography, however, a double negative is a result of double exposure: a superimposition of images over the original: exposing something to light for the second time to create a palimpsestic image that captures the passing of time. What is it, then, that remains after all these self-cancelling operations? Language, just like photography, needs to be self-aware, or else it risks canceling itself out.

V

Concluding Remarks

In a short piece “Frieze” from *The Loss Library and Other Unfinished Stories*, Vladislavić comments on the motives and effects of including photographs in literary works:

The most compelling motive for including a photograph in a fiction is to discount it. There are forty-four plates in Andre Breton’s *Nadja* and not one of them clarifies a thing. The snaps from Koos Pinsloo’s family album seem almost unreal, more obviously *made up* than fictions. In Sebald, the images are cut down to size and drained of authority. They are always less than or more than illustrative; they do not live up to the text or they carry an excess that demands an explanation. Their purpose is less to define than to disrupt, to create ripples and falls in the beguiling flow of the prose. They are pebbles and weirs.²⁸

Vladislavić singles out these examples of “good” uses of photography in literature to highlight the precarious nature of their relationship: in the above cases, photography does not play a role of rendering visible some truth that is hidden in the continuous stream of words. He emphasizes the positively disruptive nature of photography: when inserted into the flow of the prose, which charms, captivates and mesmerizes the reader, photographs can create a break, a disturbance, a punctum, exposing the art of storytelling as an art of seduction. If words can help insert the ethical content into photography, photographs, to return to the verb “refract”, break open the narrative, putting the narrative in check, halting, if only momentarily, the doubling and redoubling of metaphors and ironies.

END NOTES

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- 2 Collins Dictionary Online, s.v. "Refraction," accessed on January 15, 2023
<https://www.collinsdictionary.com/us/dictionary/english/refraction>
- 3 Susan Sontag, *On Photography*, (New York, Farrar, Straus & Giroux), 70.
- 4 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 19.
- 5 Ibid.
- 6 Ibid.
- 7 Ibid.
- 8 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 43.
- 9 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 39.
- 10 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 60.
- 11 Ibid.
- 12 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 61.
- 13 Ibid.
- 14 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 62.
- 15 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 67.
- 16 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 71.
- 17 Ibid.
- 18 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 137.
- 19 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 234.
- 20 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 87.
- 21 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 236.
- 22 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 108.
- 23 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 52.
- 24 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 182.
- 25 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 112.
- 26 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 79.
- 27 Ivan Vladislavić, *Double Negative*, (New York, And Other Stories, 2013), 218.
- 28 Ivan Vladislavić, *The Loss Library and Other Unfinished Stories*, (New York, Seagull Books, 2012), 54.

Dwight Eisenhower and Rav Aharon Kotler

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On Saturday, September 24, 1955, while playing golf in Denver, President Dwight Eisenhower suffered a heart attack. Although initially it was misdiagnosed as indigestion, when the full seriousness of the situation was announced to the American people the following day, religious leaders everywhere convened their communities to pray on behalf of the beloved president.

For Jews, this was a particularly appropriate time for prayer, as that day, Sunday, September 25, was also *Yom Kippur* eve. As a result, organizations such as the Rabbinical Council of America and the New York Board of Rabbis composed special prayers on behalf of Eisenhower and encouraged all their member synagogues to include these prayers in their Yom Kippur Services.¹ In Israel and Great Britain, Chief Rabbis led prayers for Eisenhower.²

In the Beth Medrash Govoha in Lakewood, New Jersey, the *Rosh Yeshiva*, Rav Aharon Kotler, interrupted the customary *Yom Kippur* prayers to recite a “*mi sheberakh*” for the President, even though it was customary in Lakewood not to add any prayers to the already lengthy service. Irving Bunim, a close friend of Rav Kotler and a frequent visitor to the yeshiva, reports that he suggested this addition because Eisenhower’s actions a decade earlier warranted the “*mi sheberakh*” as appropriate gratitude.³

What event was Mr. Bunim recalling? The obvious first choice had occurred



Four residents at the New York “Home of Old Israel” pray for President Eisenhower’s recovery on Sunday, September 25, 1955. Note the microphone in the far right, demonstrating that Yom Kippur had not yet begun. Photo credit unknown.

exactly ten years earlier to the day (at least in the Jewish calendar), on *Yom Kippur*, 1945. On that day, Eisenhower, then the Supreme Commander of the Allied Expeditionary Forces in Europe, visited the displaced persons camp at Feldafing, Germany, and was invited by the officiating rabbi, the Klausenberger Rebbe, to speak to the assembled Jews.⁴ Eisenhower, who had visited Buchenwald and Bergen-Belsen and had been deeply moved by the horrors he saw there, pledged to help these Holocaust survivors in any way he could. Eisenhower meant it, and he made good on his pledge. Within days Feldafing and four other DP camps in the area were deluged with all sorts of food, supplies, hospital equipment, school materials, and even sports equipment.⁵

Eisenhower enters Synagogue at Feldafing DP Camp on September 17, 1945. His flat-topped army dress cap may be seen directly under the entrance.

It was not that experience at Feldafig, however, nor any other actions that Eisenhower took on behalf of the survivors of the Holocaust that merited this honor, at least in the mind of Irving Bunim. It was not even for the various steps that Eisenhower took to document the horrors he witnessed at Nazi concentration camps to ensure that history would never forget them.⁸ It was instead an action that Mr. Bunim and Rabbi Kotler believed he had taken, not in defense or support of European Jews, but of American Jewish service members.

Why had Jewish GIs needed Eisenhower's help, and what help did he provide? As Commander of the Supreme Headquarters, Allied Expeditionary Forces (SHAEF), Eisenhower was essentially in charge of the war against Hitler and, therefore, also tasked with the safety and welfare of his soldiers. This presented a particular issue regarding the Jewish soldiers under his command because the German army often failed to distinguish between these soldiers and their European cousins, who were being slaughtered in the death camps.^{9 10} Jews were well aware of this problem and, therefore, the risk they were taking should they be captured and taken as POWs by the Germans.¹¹ There was no guarantee that the Germans would abide by the Geneva Convention's requirements to treat POWs properly.

According to Mr. Bunim's recollection of the story, he and Rav Kotler became aware of Jewish POWs being transferred to concentration camps in late 1944.¹² This makes sense because there was minimal opportunity for Jewish American soldiers to be POWs prior to this. Although World War II lasted six years, from 1939 to 1945, Americans did not begin to see action against Germany until Operation Torch in late 1942 and did not suffer significant numbers of POWs until the Battle of the Bulge in December 1944. The overwhelming majority of the almost 94,000 Americans who spent part of the war in German POW camps were taken prisoner after D-Day in June 1944.^{13 14} The timing is, therefore, reasonable.

What did Bunim and Rav Kotler do? What Jews had done for centuries. They went to the seat of power to appeal for help, hoping to find a sympathetic ear and a way to help their fellow Jews. The ear they approached, and one with whom they had prior experience, was David K. Niles, a Special Assistant to



*General Eisenhower touring Feldafing DP Camp with DP police chief
and UNRRA security officer Erwin Tichauer.⁶*



*Eisenhower enters Synagogue at Feldafing DP Camp on September 17, 1945.⁷
His flat-topped army dress cap may be seen directly under the entrance.*

President Roosevelt (and then to President Truman until 1951).¹⁵ Niles was a Jew and was tasked in the Roosevelt White House with liaison to the Jewish community and making sure Jews continued to vote Democratic.

Bunim and Rav Kotler met with Niles and, according to Bunim's report, obtained a promise from Niles to contact General Eisenhower and get Eisenhower to make it clear to Germans that if they did not treat Jewish American soldiers properly, there would be consequences after the war. As the story goes, "Eisenhower quickly arranged a broadcast through radio and loudspeakers on the front lines, warning the Germans of retribution after the war should they go ahead with this plan [to single out Jewish POWs and send them to concentration camps]. The Germans backed off the idea."¹⁶

While the story is moving and a tribute to the superhuman efforts of Irving Bunim and Rav Aharon Kotler on behalf of the Jewish community, there is a problem. There is no evidence of the action by Eisenhower. If the story were true, he would not have taken action himself, instead directing subordinates to send the necessary messages. The problem is that there is no record of such an announcement in the orders of the SHAEF.¹⁷

Even worse, while it is undoubtedly true that General Eisenhower was a leader in the effort to punish those responsible for the Holocaust¹⁸ and the effort to document their atrocities and preserve the memory of it,¹⁹ it is also true that he did not let such things get in the way of doing his main job, whatever that happened to be at the time. One example is Eisenhower's reluctance to allow Holocaust survivors to emigrate from Europe and move to Israel. Eisenhower intended to force them to return to their origin countries, even though neither they nor those living in those countries wanted them back.^{20 21}

So it is reasonable to presume that Rav Kotler broke with Lakewood tradition and authorized a "*mi shebeirach*" in the Yeshiva on Yom Kippur of 1955? Indeed, the fact that the person for whom they were praying was the President of the United States was probably sufficient for Rav Kotler. Moreover, if he needed any more reason to favor President Eisenhower, the fact that Eisenhower had led the effort to defeat Hitler and had mercy on his victims also did

nothing to hurt the cause. Furthermore, it might even be that Rav Kotler and his friend Irving Bunim believed David K. Niles and assumed that Eisenhower also stood up for Jewish troops in his army. However, the evidence does not support that claim; therefore, we will have to suffice with the earlier reasons, which ought to be reason enough.

END NOTES

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- 3 Safier, Dovi and Geberer, Yehuda. "A Mi Shebeirach for Eisenhower." *Mishpacha Magazine*, 18 Nov. 2020, <https://mishpacha.com/a-mi-shebeirach-for-eisenhower/>.
- 4 The rebbe (his actual name was Rabbi Yekutiel Yehudah Halberstam) was a compromise choice between the two main groups of DPs, Communists and Zionists, as he was a member of neither group. See Medoff, Rafael. "Eisenhower, the Rebbe and the Bombs That Weren't Dropped." *The Jerusalem Post | JPost.com*, 15 Oct. 2018, <https://www.jpost.com/opinion/eisenhower-the-rebbe-and-the-bombs-that-werent-dropped-569477>.
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- 6 Grossmann, Atina. *Jews, Germans, and Allies: Close Encounters in Occupied Germany*. Princeton Univ. Press, 2009. p. 163.
- 7 *Eisenhower, Patton at Feldafing*. United States Holocaust Memorial Museum, <https://collections.ushmm.org/search/catalog/irn1000612>.
- 8 "Eisenhower's Foresight: Protecting the Truth of the Holocaust." *United States Holocaust Memorial Museum*, <https://www.ushmm.org/online-calendar/event/vefbstayconeisen0121#:~:text=Eisenhower%20had%20studied%20his%20World, living%20skeletons%20struggled%20to%20survive>.
- 9 This is quite understandable from the German point of view. All the antisemitism that these soldiers had heard for years, the dehumanizing of Jews that permitted the

- atrocities committed against European Jews, was hard not to also apply to American ones. This is particularly true when one considers that under the Nazis, Antisemitism was a racist ideology that claimed that there was something particularly subhuman about Jews. By that argument, it should not matter whether they were European or American.
- 10 See this author's earlier article in *The Polis Volume Four* (pages 98–112) on this issue and possible reasons for American failure to do for its Jewish soldiers in World War II what Abraham Lincoln had done for the Union's black soldiers in the Civil War. Sragow, Murray. "The Abandonment of Jewish POWs in Nazi Germany." *Yeshiva University High School for Boys–MTA, The Polis, Volume Four*, <https://yuhsb.org/updates/publications/the-polis/>.
 - 11 An excellent example of this is Marvin Schlossberg, known in the Detroit area as "Sonny Eliot," the stage name he used when, after the war, he served as one of the first television weathermen in the Midwest. He was one of the many Jews to volunteer and serve as a bomber pilot. He was shot down over Germany in February 1944, almost a year before Bunim's story, and spent the remainder of the war in a POW camp near Barth, Germany. He never revealed his religion and attributed his humane treatment by the Germans to his last name, which had German origins. This indicates that, like many of his co-religionists, Schlossberg went to war, presuming exactly what Bunim and Rav Kotler were supposedly shocked to discover. The author wishes to thank Dr. Matthew Schwartz of Wayne State University for providing this example. Fournier, Gregory A. *Detroit's Beloved Weatherman Sonny Eliot*, Blogger, 31 July 2022, <https://fornology.blogspot.com/2017/03/detroits-beloved-weatherman-sonny-eliot.html>.
 - 12 Bunim, Amos. "A Fire in his Soul: Irving Bunim, 1901–1980," p. 123.
 - 13 Of the 93,941 US service members captured by the Germans, 92,820 survived. This is an incredible number, almost 99%, and a testament to German adherence to both letter and spirit of the Geneva Convention. By comparison, less than 60% of American POWs held by Japan survived. There are two possible explanations for this German performance, both of whom worked to the detriment of the Jews they held. One possibility is that Germany believed that the best way to ensure the good treatment of their POWs held by the Allies was an equally good treatment of the POWs they held. The United States treated its POWs so well that many of them, at the end of the war, chose to remain in the United States instead of being repatriated to Germany. So that may have motivated Germany, and if so, it paid off. A second possibility is that because

the Germans saw themselves as an elevated culture, they could demonstrate their superiority on the battlefield and in their treatment of fellow humans. The problem is that neither of these motivations helped in the case of Jewish captives. On the “tit for tat” side, Germans, by late 1944, knew that they were losing the war. The Russians were steadily advancing in the East and the allies in the West (except for about six weeks in December and January during the Battle of the Bulge). So there was little expectation that the Americans would have time to react to the German treatment of their captives, which decreased motivation to deal with Jews according to the Geneva Conventions. On the side of Germans showing their superiority, that only applies to the good treatment of people they deem human. Their definition of Jews as subhuman relieved them of that responsibility and allowed them to treat Jews as cruelly as they wished.

Guests of the Third Reich, James R. Moffett Family Foundation,
<https://guestsofthethirdreich.org/home/>.

- 14 It is estimated that as much as one-quarter of this total happened during the Battle of the Bulge when many Jewish soldiers in Europe saw action.
Malloryk. “The Battle of the Bulge.” *The National WWII Museum | New Orleans*, The National World War II Museum, 18 Dec. 2019, [https://www.nationalww2museum.org/war/articles/battle-of-the-bulge#:~:text=In%20the%20Battle%20of%2the,23%2C000%20American%20troops%20taken%20prisoner](https://www.nationalww2museum.org/war/articles/battle-of-the-bulge#:~:text=In%20the%20Battle%20of%2the,23%2C000%20American%20troops%20taken%20prisoner.).
- 15 Roosevelt had created this position because of his expansion of the Federal government, and Niles became a trusted political advisor to him. Multiple times during Roosevelt’s and Truman’s presidencies, Niles advised policy decisions based on polling results, and the popularity of these decisions greatly helped their re-election efforts. Among other things, Niles is credited with the decision to integrate the army and recognize Israel. It is estimated that as much as one-quarter of this total happened during the Battle of the Bulge, when many Jewish soldiers in Europe saw action.
Scharlin-Pettee, S. (2018, April). *Mystery Man of the White House*. History Today. Retrieved from <https://www.historytoday.com/history-matters/mystery-man-white-house>
- 16 Safier, Dovi and Geberer, Yehuda.
- 17 This is a difficult claim to make. A record of such an order by Eisenhower exists, but it has yet to be found. The author welcomes any evidence to support this story. All those contacted by the author, however, including authors of articles on the Bunim/Kotler/Niles meeting as well as the U.S Holocaust Museum, the Jewish War Veterans, the

- Eisenhower Library in Abilene, Kansas, and the Papers of Dwight David Eisenhower at Johns Hopkins University all have not found any evidence supporting this claim.
- 18 Eisenhower even approved a request from a common soldier who had witnessed the atrocities at Buchenwald to be the one to execute Hermann Goering should he be found guilty and condemned to death.
Shapell, B., & Willen, S. (2016, October 16). *The Nuremberg Trial Executions*. Shapell. Retrieved from <https://www.shapell.org/historical-perspectives/between-the-lines/nuremberg-trial-executions/>
 - 19 It is frightening to contemplate how much easier would be the arguments of the Holocaust deniers if not for Eisenhower's foresight.
Eisenhower, S. (2021, January 27). *Eisenhower's Foresight: Protecting the Truth of the Holocaust*. United States Holocaust Memorial Museum. Retrieved from <https://www.ushmm.org/online-calendar/event/vefbstayconeisen0121>
 - 20 Until President Truman countermanded his policy, Eisenhower had in the DP camps both Holocaust survivors and their German persecutors since often they both were displaced from the same country.
Truman, H. S. (1945, September 29). *Letter to General Eisenhower Concerning Conditions Facing Displaced Persons in Germany*. The American Presidency Project. Retrieved from <https://www.presidency.ucsb.edu/documents/letter-general-eisenhower-concerning-conditions-facing-displaced-persons-germany>
 - 21 An example of the ongoing antisemitism in Europe after the Holocaust is the Kielce Pogrom. Until then, Polish survivors were willing to consider returning to their pre-war homes, but afterward, that possibility was foreclosed.
Gross, R. E. (2018, January 8). *Kielce: The Post-Holocaust Pogrom That Poland Is Still Fighting Over*. Smithsonian Magazine. Retrieved from <https://www.smithsonianmag.com/history/kielce-post-holocaust-pogrom-poland-still-fighting-over-180967681/>

Women's Material Culture and Revolution During the 1920s

Shamim Elyaszadeh '24

How did women and their role in society revolutionize during the 20th century? As American society modernized in the 1920s, corporations directed advertising for modern inventions towards women, helping women reimagine their roles as daughters, wives, and mothers. Inventions like the vacuum, electric clothing iron, and refrigerator cut back on women's home labor and provided women with increased leisure time. Furthermore, the success of universal women's suffrage in 1920 and the prominence of media advertisements popularizing the concept of the self-reliant woman led to the normalization of non-traditional, often rebellious trends, like women smoking and drinking in public. Numerous other factors, including an amplification of material culture influenced by disposable income, new advertising tactics, technological advancements in time and labor saving gadgets, the social impact of women's rebellions against prohibition laws, and flappers, who represented themselves in a modern light like no other generation of women before them, all helped revolutionize women's role within society during the 1920s. Advertisements shaped many social standards for women and the products on which they spent disposable income, how they completed their housework, and influenced how women utilized their freetime.

Disposable income, partially influenced by the increased representation of women in the workforce post World War I, contributed to the ability of middle class women to pursue material culture. In 1916, the average earnings of an American was \$708, and it almost doubled to \$1,303 just eight years later in

1924.¹ Moreover, disposable income led to the increased accessibility and production of material goods like radios and automobiles. During World War I, women began to enter the workforce to fill the jobs previously held by men serving in the war. Women occupied 23% of the workforce by 1920.² After the war, some of these women maintained their jobs, and as a result, many families and individuals obtained even more money to spend on new inventions and gadgets. A significant factor influencing women's labor was their family size. During this period, women with no children were 3 times more likely to work than mothers with three or more children.³ Family sizes started to decline to an average of two children per household between 1920 and 1930 compared to the average five person household just 40 years before.⁴ These developments increased the proportion of women working even though most mothers did not work. Although some articles suggest that "the 1920s saw a time of decreased marriage rates,"⁵ the marriage rates and average age women got married followed a steady trend and did not drastically change when accounting for individuals who refused to get married.⁶ Women's role in the workforce and access to disposable income shaped their perspective on material goods while their lack of desire to veer from traditional marriage and motherhood expectations displayed how they were still somewhat traditional in their values.

Feminism and concepts of women's autonomy materialized differently within advertisements depending on the social classes depicted in the ads and companies especially capitalized off of selling the image of women's liberty. For the first time, advertising companies viewed women as a distinct demographic and another realm for companies to generate sales. Marketers targeted women through ads with women as the focal point. In particular, automobile ads frequently showcased women in an effort to normalize women driving, loosen the stigma surrounding women driving, and ultimately win women's business. One such advertisement features a lady facing what appears to be her female friend in the car. In flashy letters it reads "more women drive Buicks than any other Fine Car."⁷ (Fig.1) The text below the illustration exclusively discusses women and how there is no automobile better suited for women's needs than Buicks. The ad presents two independent women, free to drive wherever their hearts desire with no fathers or husbands in sight. The women are dressed



Fig. 1



Fig. 2

traditionally and femininely, revealing how this ad was aimed towards the upper-middle class. In addition, women featured in such advertisements were often depicted as mothers. Women's femininity and traditional dress and conduct in ads from this period suggests that most upper-middle class women still subscribed to older ideals and unveils how not all women bought the idea of complete equality and maybe plenty enjoyed their place in society. However, advertisements directed towards lower class communities portrayed women with a masculine edge. Another advertisement reads "Women Work, Women Vote"⁸ with a picture of a woman clad in a T-shirt with short hair flexing her muscles. (Fig. 2) She is depicted as independent and macho, attempting to inspire women to exercise their new rights and to contribute to the economy. This ad is strongly similar to the car ad because both women convey the same message. Another factor is that the ad concentrating on women's suffrage was released in late 1920, when women had just begun to be breadwinners. The other ad is from 1928, when women already owned their appliances and were familiar with disposable income. These differences highlight the milestones attained during the 1920s.

Time saving appliances and gadgets revolutionized women's role in the home and society. The popularity of and accessibility to electricity in average homes paired with the mass production of these inventions, enabled the production of appliances and the electric appliance industry to expand rapidly. These electric appliances created a safer and cleaner home environment than gas

and coal. Companies advertised these machines in magazines as efficient due to the 'magic of electricity.' Devices like vacuums, refrigerators, washing machines, and irons saved women hours of home work and created an increasingly convenient lifestyle. To put the significance of appliances into perspective, as opposed to heating water and washing clothes on a washboard and then hanging the clothes up to dry, a housewife could simply toss clothes in a washer and then a dryer. Electric refrigerators replaced daily grocery runs and salting and smoking food to preserve it. Instead of moving back and forth from the stove to the clothes to keep irons hot, electric irons stayed hot so that ironing could be completed in one sitting. Because some housewives were unfamiliar with these new inventions, courses about "electrical equipment economics" were developed to educate women on how to operate appliances. During this era, women referred to electronic appliances as 'electric slaves' or 'electric servants' and soon after these 'slaves' were invented, they became vital to middle class everyday life. Some argued that while electric appliances helped women save time on house chores, "these appliances eased the drudgery of one type of household labor only to find it replaced by another: the role of family chauffeur... It can be argued that being in a car going places is less confining than being inside a house cleaning. This argument does overlook the fact that driving family members to their different activities is still performing duties, still giving service to someone else. This change from house-bound service to car-bound service was noticed very early in the drive to make electric appliances a part of every household."⁹ Home appliances reworked middle class women's place in the home by offering convenience—for example, advertisers marketed the refrigerator as a "gift that simplifies housekeeping and safeguards health."¹⁰ (Fig. 3) Although advancements in machinery liberated women from certain household chores, they arguably replaced this with tending to everybody's needs by driving their family members around.

Not only did electric appliances reform women's responsibilities inside the home, but taught advertisers and companies the necessity of women's business. For instance, the appliance industry was completely built off of its appeal to women and naturally tailored ads towards women.¹¹ For the first time, largely due to their disposable income, women were valued in the economy. Companies were dependent on women's validation. Therefore, companies created

ads intended to charm women: they were not just selling a product; they were selling a lifestyle and an appealing image. Advertisers were influenced by women's habits and interests while also gaining immense influence over middle class America and redefining the ideal woman, a definition which was constantly altered to reflect the newest gadgets, fads, and trends. Marketers purposely constructed this image to be unattainable to women so they would buy more products. The concept of extending marketing to women even infiltrated the automobile industry, which expressed its interest for women's business in its thoughtful advertising, which normalized women driving and owning cars. Advertisers created an image of women denoting the value of their spending power. (Fig. 4)

The prohibition of alcohol and the new generation's flapper dresses influenced and reinforced the rejection of traditional social standards for women during the second decade of the 20th century. Once the prohibition of alcohol was in effect in early 1920, speakeasies, illegal bars, popularized among women as a way to indulge in a fun night. Flappers, carefree women who wore somewhat loose dresses and dated multiple men at once, contributed to the 'new woman. Furthermore, "prohibition made it fashionable to drink in public



Fig. 3



Fig. 4



Fig. 5

and defy laws and gave women a law which was easy to rebel against while exerting their new found power and freedom. Women in the 1920s were much freer than those of generations past and were not only drinking, but also smoking and dancing; all actions that were looked down upon by older generations. This 'new woman' or 'flapper' changed how society viewed women. Women were now willing to assert their views and opinions to older generations and have frank conversations with their elders and males about life, politics, and marriage."¹² Ads demonstrated this by plastering women's faces onto their products. For example, a cigarette brand named "Lucky Strike Cigarettes" created an ad which said "to keep a slender figure, no one can deny... Reach for a lucky instead of a sweet."¹³ (Fig. 5) Furthermore, two *Life Magazine* covers from the era further developed the ideas surrounding women's autonomy and social progress in the 1920s. The first cover is an illustration of a woman accepting a bottle of alcohol¹⁴ and the other cover is of a woman smoking a cigarette.¹⁵ These are all actions that would have never been accepted by wider society until they were normalized by flappers. This generation experienced numerous advances for women and redefined what was considered acceptable behavior.

Evidently, the role of American women in society revolutionized significantly during the 1920s. Due to the aforementioned increase in disposable income,

American material culture boomed and advertising companies targeted women of various social classes in order to increase the sale of material goods. Companies began to view women as consumers and embraced women's changing desires as profit. Electric appliances had an undeniable impact on the regular woman's position within her realm and everyday life. The standardization of birth control and the adaptation of new views on femininity, in addition to women drinking illegally and 'flappers', who popularized fresh fashions and attitudes on how to live their lives, all contributed to the revolution of American women in the 1920s.

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The Lesser of Two Evils

Shalom Henesch '23

Disclaimer: In no way is this essay arguing that the lives taken by the Atomic Bombs were meaningless. The loss of innocent lives was a terrible tragedy.

There is a famous philosophical concept of, “*sacrifice the few to save the many.*” This same philosophy held true to justify the nuking of the Japanese cities of Hiroshima and Nagasaki by President Harry S. Truman in August 1945. To this day, Truman’s decision on that hot August day is a contentious topic. Many argue that Truman’s decision to use the atomic bombs was unnecessary and immoral. However, the first factor they fail to recognize is that the atomic bombs saved more lives than they killed. If Truman had given the greenlight for Operation Downfall to invade the Japanese mainland, many more civilians and soldiers would have been killed, as evidenced by any prior ground invasion. The second factor which those who argue against the use of the atomic bombs fail to take into consideration is that the desperate Japanese Emperor and military leaders were determined to fight until the bitter end, and often chose to ignore warnings of their impending destruction by U.S. forces. For this reason, accountability for the innocent lives taken by Hiroshima and Nagasaki lies entirely on the shoulders of the Japanese Emperor and generals. Ultimately, Japan’s refusal to surrender gave the United States no choice but to drop the atomic bombs to save more lives.

On the third of August, 1945, in what would become known as the Potsdam Declaration, Truman issued a simple warning to Japan: surrender, or face

“prompt and utter destruction.” Japanese citizens knew of this warning due to American radio broadcasts delivered in Japanese. In order to warn the Japanese citizens of Hiroshima of the impending danger, U.S bombers flew over the city dropping leaflets to the Japanese soldiers and civilians prior to the bombing. In Japanese, these leaflets read:

“Evacuate at once. These leaflets are being dropped to notify you that your city has been listed for destruction by our powerful airforce. This advance notice will give your military authorities ample time to take necessary defensive measures to protect you.”¹

The leaflets also attempted to encourage Japanese citizens to rise up and overthrow their military government in order to save their country. Local authorities of Hiroshima took these messages seriously and evacuated around 100,000 citizens to safer locations. The United States was determined to warn the Japanese people and minimize the casualties caused by the impending destruction of Hiroshima.

Unlike some of the wiser local authorities, the Japanese Emperor, Hirohito, was often desperate, and at times even delusional. Hirohito and the Japanese Prime Minister, Kantaro Suzuki, chose not to take the ultimatum or leaflets seriously, as they believed it was recycled rhetoric. After arguing for a week, in what appeared to be an unreasonable decision, Hirohito’s cabinet and military leaders concluded that Truman would not follow through on his declaration. After rejecting Truman’s demands, Japanese Prime Minister Kantaro Suzuki announced that “the only alternative for us is to be determined to continue our fight to the end.” Many Japanese leaders also held on to the concept of *Meiyo*², which is the Japanese word for honor. This philosophy dictates that the loss of a warrior’s dignity and honor makes their life pointless. Japanese author and writer Nitobe Inazō wrote that “Shame is like a scar on a tree—rather than disappearing, it grows with time.” Simply put, honor comes before death. Due to the Japanese government’s refusal to believe the pamphlets or surrender, 74,000 innocent lives were taken when ‘Little Boy’, the first atomic bomb, was dropped on Hiroshima.

Despite reports of the tragic situation in Hiroshima, Hirohito appeared to stubbornly prolong the war for his own reasons. Hirohito knew that unconditional surrender was the only way to save his country; however, this would mean the end of the imperial dynasty that had ruled Japan for over two millennia. He also knew of the very real possibility that he would be tried and executed for countless war crimes.

A very important factor that is often overlooked by historians is the fact that the Japanese military leaders and generals held an immense amount of power and influence in national policy making. Many in the Japanese military were opposed to any surrender with the United States and her allies. Many Japanese military leaders even openly welcomed an invasion on Japanese soil for an honorable final stand. As stated by Japanese War minister Korechika Anami, "...if it came to a final battle on Japanese soil, we could at least for a time repulse the enemy, and might thereafter somehow find life out of death."³ Despite the immense suffering of the Japanese civilians, the naive 'God' Emperor⁴ and his seemingly blind generals and politicians selfishly clung to the false illusion of a great final stand against the "western barbarians."

It took a second Atomic Bomb, 'Fat Man', to cause the Japanese to surrender. After a very contentious debate against formidable opposition, the delusional 'God man' Hirohito and his government decided it was time to accept unconditional surrender to the Allies. However, Major Kenji Hatanaka thought differently. Hatanaka firmly believed that Japan should continue to fight at all costs. Hatanaka and his co-conspirators managed to take over the imperial palace to 'save' the Emperor. In fact, Hirohito was not in his palace— he was cowardly hiding in an underground bunker similar to his fallen ally, Adolf Hitler. The conspirators also attempted to assassinate Prime Minister Suzuki. Fortunately, Suzuki managed to escape just minutes before the conspirators could kill him. Even with their 'divine' Emperor in favor of surrendering, many military leaders still attempted a last ditch effort to continue the war. Many in the Japanese military were war mongers who had no regard for the suffering of innocent civilians and only cared for the glory of the Japanese Empire.

Although Hirohito ultimately agreed to unconditional surrender, he never

once used the word *surrender*. Rather, he used language that was seemingly unrelated to surrender—language about making peace, as exhibited by the following statements:

“The war has lasted for nearly four years. Despite the best that has been done by everyone—the gallant fighting of the military and naval forces, the diligence and assiduity of our one hundred million people—the war situation has developed not necessarily to Japan’s advantage, while the general trends of the world have all turned against her interest. Unite your total strength to be devoted to construction for the future. Cultivate the ways of rectitude, foster nobility of spirit, and work with resolution so that you may enhance the innate glory of the Imperial State and keep pace with the progress of the world.”⁵

Even whilst accepting unconditional surrender, Hirohito falsely misled his citizens into peace, not surrender. Despite this, many Japanese navy and army officers committed ritual suicide in public whilst military bureaucrats burned documents that could be used against them by American prosecutors in Nuremberg style trials. Hirohito and the Japanese government surrendered, but only after cowardly shielding their remorseless egos with the lives of their own civilians.

Ultimately, Truman’s decisive decision to drop the atomic bombs saved countless American and Japanese lives. Without the atomic bombs, Truman’s only other choice would be to invade the Japanese home islands. Under what would have been Operation Downfall, scheduled for November 1945, 6 million men⁶ of the combined armies of the United States, the United Kingdom, Canada, and many other allied nations would have invaded Japan from the south. In the meantime, the Soviet Union would have invaded from the north. This would have had the added effect of making Japan’s situation parallel to that of their fallen ally, Nazi Germany, with the western Allies on one side and the Soviet Union on the other. If the Allies had gone ahead with Operation Downfall, there would inevitably have been an enormous number of casualties on the allied side, as was the case for all known ground invasions. Most estimates by military historians conclude that anywhere from 500,000 to 1 million American soldiers⁷ would have been killed in an invasion of Japan. Compare

that sheer number to the number of American deaths in the Second World War: 416,800. An invasion of Japan would have doubled or even tripled the amount of American men and boys killed in the Second World War. Many American soldiers, sailors, and airmen were dreading the impending invasion of Japan. “Thank God for the atomic bomb” became a slogan used by American soldiers upon hearing of Japan’s surrender. A twenty one year old infantry lieutenant wrote, “for all the fake manliness of our facades, we cried with relief and joy. We were going to live. We were going to grow up to adulthood.”⁸

The Atomic Bombs also saved the lives of the American and allied POWs that were captured in Japan. Even right before Japan’s surrender, a dozen captured U.S. airmen were taken from their POW camps and executed with swords. Most historians agree that in the event of an invasion of Japan, Allied POWs would have been executed en masse by Japanese officers.

Not only did the Atomic Bombs save American lives, but countless lives of Japanese soldiers and civilians. Due to the previously mentioned concept of *Mei-yo*, Japanese authorities were determined to fight valiantly to the bitter end in the defense of their home islands. The Japanese plan for the defense of the islands was codenamed Operation Ketsugo. The plan was quite formidable: Japan had 4.3 million soldiers to defend the island but only enough ammunition and equipment for 1.2 million men. All men in the country aged 15 to 60 and all women aged 17 to 40 were going to be conscripted and armed with basic weapons or even bamboo spears to join in the defense, amounting to roughly 31.5 million people in Japan in addition to the 4.3 million trained soldiers in the Japanese militia. The Japanese military was also planning to use 10,000 planes as kamikazes to launch suicide attacks on allied ships and transports as they came close to the beaches.⁹ Japanese strategists hoped to overrun the allied ships with swarms of thousands of planes as if they were locusts. Other plans included using manned suicide torpedos, suicide divers who would swim under ships with mines, and thousands of kamikazi boats full of explosives. Many of these tactics were used by Japan’s fallen ally, Nazi Germany, during its final stand. Most estimates by historians put Japanese casualties—if the aforementioned operations were actualized—at approximately 5 to 10 million.¹⁰ Compare this overwhelming figure to the number of Japanese

deaths in the Second World War: 3,100,000. Operation Downfall and Ketsugo would have doubled or even tripled Japanese casualties in the Second World War. Moreover, most historians agree that had these plans been initiated, the war would have lasted until 1946 or even 1947.¹¹

In conclusion, Truman's decision to drop the atomic bombs saved countless American and Japanese lives. A U.S invasion of Japan would have been a nightmare for both sides and would have led to further needless death and destruction. The United States should not be blamed or faulted for the deaths at Hiroshima and Nagasaki; these deaths were perpetrated by a delusional Japanese Emperor and government. Based on their attachment to the philosophy of *Meiyo*, causing them to selfishly lead 214,000 men, women, and children to their deaths, the U.S. ultimately had its hands tied and was forced into a decision it never wanted to make in the first place. Some may never be convinced that the atomic bombs were justified, because any death is tragic and hundreds of thousands of civilians suffered as a consequence of their usage. But in reality, America was confronted with two unfavorable choices. It was either death, or even more death, with no alternative. The atomic bombs were merely the lesser of two evils.

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Japanese Internment During World War II America: Why It Happened and What It Means for Us

Daniel Lipshitz

*“We were taken away, they came to our house and took everything.
We were literally stripped clean.”¹*

*“Authorities arrested [my] father, ‘ransacked the apartment, [took] a lot of
things and left the door open.”²*

*“Already before we get [sic] out of [the] train, army machine guns lined up
towards us... pointed machine guns toward us.”³*

It was 1942, and the evacuation of 110,000–120,000 American residents from their homes to relocation centers was government sanctioned. Evacuees were instructed to take only that which could fit in a personal suitcase. Leaving their homes for the initial resettlement stage, they had yet to learn where they were being taken, for how long, or whether they would ever return. It would be another four years until the last of these resettlement camps was to close.

Anyone acquainted with modern Jewish history would be chilled by the above descriptions, which immediately bring to mind SS officers rounding up Jews for deportation and “resettlement.” That so few Americans would identify these quotes as the recollections of Japanese Americans interred *in the United States* at detention facilities during World War II suggests an almost deliberate attempt to gloss over this notorious chapter of the American historical nar-

rative. Were it so, it would be no wonder, as the entire episode undermines the very scaffolding on which this democracy is built: freedom.

Allegedly in response to the December 7, 1941 attack on Pearl Harbor, American policy provided for the incarceration of Japanese Americans who were forced to abandon virtually all they possessed without compensation and to live in prisonlike compounds—men, women, and children. Although surrounded by barbed wire and guards with guns, these compounds in no way resembled Nazi concentration camps. Genocide was never an objective. However, removing lawful American residents (two-thirds of whom were citizens) from their homes without cause for virtual imprisonment set a frightening precedent.

President Franklin Delano Roosevelt's Executive Order 9066, issued eighty years ago, on February 19, 1942, empowered Lieutenant General John L. DeWitt, commander of the Western Command and the Fourth Army, to empty parts of Arizona, California, Oregon, and Washington of Issei (Japanese immigrants) and Nisei (their children). The affected population was initially transferred to holding stations (former fairgrounds or racetracks) and then to hastily constructed relocation compounds, where many remained until the end of the War.

How could this happen in America?

Primary source documents and personal testimonials point to two underlying factors and principles that have characterized humanity since antiquity: bigotry and greed. Influential politicians motivated solely by racial prejudice pushed for and effected anti-Japanese policies. DeWitt prepared a report replete with known falsehoods, for example, an argument about sabotage—later revealed to be caused by cattle damaging the power lines⁴—to press for relocation. Politicians were egged on by public hysteria, fed by sensationalist media reports of alleged Japanese subversive behavior. Consider, for example, a New York Times report on February 18, 1942, which reported that “On the farm of Isaburo Saki, 48 years old, agents found binoculars, flashlights, a radio, and what appeared to be a homemade blackjack.” Other prominent newspapers

participated in the feeding frenzy of outright lies against Japanese Americans.

An example of the hysteria that existed at the time was reported in the Los Angeles Times on February 23, 1942. The “Great Los Angeles Air Raid” was a fictitious attack on Los Angeles that involved searchlights lighting up the night sky, “thousands of volunteer air-raid wardens timb[ing] from their beds,” and even of the US Army “shooting up an empty sky.”⁵ headline read: “Japs Evicted on Terminal Island-FBI Police and Deputy Sheriffs Round Up [Aliens].”

Meanwhile, The Seattle Times, reporting on the evacuation of Bainbridge Island in Puget Sound, joined the cacophony of voices spreading falsehoods, editorializing that Japanese Americans were complicit in their resettlement. It wrote, “If anything ever illustrated the repute of these United States as a melting pot of diverse races, it was the evacuation of Japanese residents, American and foreign-born from the pleasant countryside of Bainbridge Island...The Japanese departed their homes cheerfully, knowing full well, most of them, that the measures were designed to help preserve the precious, kindly camaraderie among divergent races which is one of this country’s great contributions to humanity.”⁶

Meanwhile, farmers and small-business owners greedily eyed Japanese American operations, which were more profitable than their own. They used the prevailing sentiment to press for the wholesale takeover of these properties. Ultimately, Roosevelt allowed himself to be influenced by military personnel and Members of Congress whose arguments in support of evacuation had no basis.

The sentiment that influenced Roosevelt can be evidenced by the opinion of no less a figure than the future Supreme Court Chief Justice, Earl Warren. The day after the issuance of Executive Order 9066, Warren—as Attorney General of California—convened the state’s district attorneys and sheriffs and told them he considered Japanese residents to be a fifth column in California.

When implementing the Executive Order, Roosevelt tried to distance himself from unpleasantness. He instructed Secretary of War Henry L. Stimson to de-

cide how to deal with the West Coast's "Japanese problem." Stimson delegated responsibility to Assistant Secretary of War John McCloy, who communicated with Lieutenant General DeWitt that the President had – in substance – granted them *carte blanche* regarding how to handle the situation. They were free to make decisions based on "military necessity." The stage was set for racial biases to rule. Reports from the Federal Communications Commission, the Federal Bureau of Investigation, and Naval Intelligence against eviction and internment were suppressed.⁷

The wording of Executive Order 9066 deliberately omitted to mention by name the population it sought to control. The order designated certain areas as "military zones." It indicated that anyone without a requisite license could no longer remain within the military zone and would need to report to an assembly center for later evacuation. While Japanese Americans were never mentioned by category, they only needed the requisite license to remain within the zone or enter from without.⁸

A mere six days after Roosevelt signed Order 9066, Japanese Americans living in Terminal Island, an islet off San Pedro Harbor at the southern tip of Los Angeles, were given forty-eight hours to prepare for evacuation. Driving empty trucks, secondhand furniture dealers, junk dealers, and scavengers followed behind army vehicles—occasionally even impersonating FBI agents—warning of immediate evacuation and conspiring with accomplices to return a few hours later to buy whatever families had left.

Approximately two weeks after the issuance of Order 9066, two committees were initiated to establish assembly centers where internees would be held for a few months until permanent camps were erected.

Evacuees were given between one and six days to prepare for departure. Putting affairs in order in that amount of time was impossible. How might one rent or sell a home, car, agricultural land, or business in such a short amount of time? The result was that evacuees were forced to accept prices at a fraction of their value. Thousands of families lost their homes and farms to bank foreclosures because the government ordered all bank accounts frozen. Jeering

non-Japanese called through the streets, “Hey, you Japs! You’re going to get kicked out of here tomorrow...”

What can we, in 2022, learn from this experience?

The degree and extent of relocation efforts and arrangements undertaken by the American government are shameful. Lessons learned, and analysis of how such a travesty could occur in America should be a mandatory part of every school curriculum. Recognizing and acknowledging America’s despicable treatment of humans simply because of their race is only a part of the educational process.

First—is to understand how mob mentality develops and be trained to question and critique media, demand truth, and isolate institutions and politicians that promote falsehoods. Such a skill is essential on a large scale and in micro-social situations, such as within a school class or a group of friends. The more adept one is at recognizing prejudice and ascertaining truth, the more likely one will be an independent thinker, capable of formulating informed opinions rather than going along with the crowd—who are all too often misled by personal biases.

Second—is to advocate for one’s group interests. Japanese Americans were insufficiently organized politically to protect their interests. Rather than argue the constitutionality of removing the Japanese from the West Coast, the Japanese American Citizens League adopted the policy that peaceful compliance demonstrates loyalty.⁹ That said, some brave individuals took upon themselves willful defiance of evacuation orders. The League, however, did not support these protestors and sought to distance itself from them.¹⁰

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***Political Pragmatism:
China's Contemporary Rise to Global Hegemony***

Benjamin Golani '23

Upon observing the state of the People's Republic of China after succeeding Mao Zedong as Chairman of the Chinese Communist Party (CCP) in 1978, the renowned military commander, revolutionary, and statesman Deng Xiaoping, later known as the Architect of China, remarked: “不管黑猫白猫, 捉到老鼠就是好猫”—“No matter if it is a white cat or a black cat; as long as it can catch mice, it is a good cat.”¹ This quote encapsulates the essence of pragmatism, a school of philosophy predicated on the belief that the merit of political ideologies is derived exclusively from their functionality.² By extension, pragmatism promotes effective action over rigorous adherence to ideological doctrines and posits that propositions derive validity from their real-world consequences alone. China's rapid economic growth over the past few decades represents the successful implementation of pragmatist policies at the turn of the century. This success is exhibited in the growth generated by China's departure from Maoism, economically and even socially.³ No singular factor can account for the success of pragmatist policies in engendering China's emergence as a global power; rather, only a thorough historical and philosophical evaluation of pragmatism can account for the contemporary rise of the People's Republic.

I

The Evolution of Pragmatism as a Philosophical Theory

Use of the word ‘pragmatism’ dates back to ancient Greece, where the statesman and historian Polybius (200-118 BCE) referred to his writings as pragmatic, or written to be instructive to his readers.⁴ Polybius derived ‘pragmatism’ from the Greek word *pragma*, meaning ‘action’ or ‘affair’. In his documentation of Roman hegemony in the 5th and 6th centuries AD, Polybius writes: ‘the peculiar function of history is to discover, in the first place, the words actually spoken, whatever they were, and next to ascertain the reason why what was done or spoken led to failure or success. For the mere statement of fact may interest us but is of no benefit to us, but when we add the cause of it, study of history becomes fruitful.’⁵ As suggested by this excerpt, Polybius’ analysis of history was uniquely pragmatic for his day and age, placing a notable emphasis on unveiling ‘cause and consequence’ to assess the utility of ideas beyond their historical context. Polybius may be considered an early pragmatist; nevertheless, pragmatism only rose to prominence centuries later.

During the Scientific Revolution, French philosopher René Descartes pioneered the methodology of rationalism, arguing that ideas should be clear in their own right and not based on the presumption of a supreme authority or absolute doctrine. As Descartes wrote in *A Discord on the Method of Conducting One’s Reason and Seeking Truth in the Sciences*, “My grand conclusion is that it is the mind and the mind alone that tells us what the world is really like. This is the basis of my whole view of ‘rationalism.’”⁶ Though a devout Catholic, Descartes challenged Scholasticism—and by extent, the Catholic Church—by proposing that *because* the (Christian) God instilled man with the ability to reason, anything discovered by man is necessarily of divine origin. To characterize Descartes’ proposition as controversial would be an understatement—the Trial of Galileo in 1610, an event which coincided with Descartes’ rise to prominence, set a precedent for the tendency of the Roman Catholic Church to label scientific results which misaligned with a fundamentalist interpretation of scripture as blasphemous, and to vilify the scientists (then, natural philosophers) who popularized such findings.⁷ Not only did Cartesian rationalism offer a rectification of the apparent contradiction between science and

Christianity, but recharacterized science as a process by which to discover God's truth in the universe.

The inception of pragmatism as a rigorous philosophical theory can be traced back to the late 19th century, when the American philosopher, mathematician, and scientist Charles Sanders Pierce published a series of essays outlining the fundamental doctrines of pragmatism. In *Illustrations of the Logic of Science II*, published in 1878, Pierce proposes a number of claims to this end.⁸ In developing his initial premise, Pierce refers to Descartes' rationalism: in particular, Descartes' emphasis on the importance of clarity in discerning the truth of an idea. Since, according to Descartes, our ideas are mere byproducts of God-given consciousness— the means by which we are informed of reality, in order to distinguish between truths and falsehoods, we must separate ideas based on their clarity:⁹ unclear ideas must be untrue, and clear ideas may be true. Note that while unclear ideas *must* be untrue, clear ideas only *may* be true. This subtle distinction is significant in that at this point, Pierce builds upon Descartes' deductive reasoning with what he sees as the 'missing criteria' for verifying ideas as *certainly* true. The reason for the uncertainty in labeling clear ideas as 'true' is a consequence of mutually exclusive premises: if multiple, equally clear theories are based on fundamentally incongruent principles, only one can be true. Case in point, when rolling a die, the six possible outcomes are mutually exclusive; only one theory can manifest in reality. This, Pierce argues, is the importance of the second condition for verifying a theory as true: distinctness. Distinctness is the factor which distinguishes between an idea which *seems* clear and an idea which *is* clear. According to Pierce, for an idea to be distinct, it must 'withstand the test of dialectical examination'. Here, the process of scientific inquiry enters the scene to differentiate between contesting theories, thereby identifying one distinct truth.

Pierce asserts that there is a singular truth for every matter of scientific inquiry, and argues that the method of dialectical examination will eventually spur the discovery of these truths 'in the infinite long run'. As Pierce writes, "All the followers of science are fully persuaded that the processes of investigation, if only pushed far enough, will give one certain solution to every question to which they can be applied. One man may investigate the velocity of light by

studying the transits of Venus and the aberration of the stars; another by the oppositions of Mars and the eclipses of Jupiter's satellites; a third by the method of Fizeau; a fourth by that of Foucault; a fifth by the motions of the curves of Lissajoux; a sixth, a seventh, an eighth, and a ninth, may follow the different methods of comparing the measures of statical and dynamical electricity. They may at first obtain different results, but, as each perfects his method and his processes, the results will move steadily together toward a destined centre. So with all scientific research."¹⁰ Pierce views this principle as a general law of the universe: "This great law is embodied in the conception of truth and reality. The opinion which is fated to be ultimately agreed to by all who investigate, is what we mean by the truth, and the object represented in this opinion is the 'real'. That is the way I would explain reality."

As pragmatism made its early rounds in mid-to-late 19th century America, England underwent a scientific, philosophical, and religious upheaval as (Charles) Darwin's *Origin of Species*, published in 1859, embroiled Europe in contention.¹¹ Not only did Darwin's theory of evolution contest popular notions of divine creation, but it posed a formidable challenge to the widespread idealism of the 19th century, a philosophy stressing the central role of the ideal or the spiritual in the interpretation of experience.¹² For early pragmatists, the theory of evolution offered a very rationalistic, non-idealistic view of nature and life—a view centered around the struggles of adapting to one's environment. Evolution diverged sharply from idealist thought. While idealistic thinkers eulogized what the pragmatists dismissed as abstract, mystical doctrines, evolutionary theory characterized the human state as the process of developing techniques favorable to the preservation and improvement of life—a much more tangible and rational theory for 19th century skeptics.

Unsurprisingly, the theory of evolution was gradually employed by pragmatist philosophers of the late 19th and early 20th centuries. William James, a professor of philosophy at Harvard famed for popularizing pragmatist thought (1890–1920), focused on the *utility* of truth in a 'Darwinian world.' According to James, as expressed in his essay "The Will to Believe" (1897), the main function of thought is to help people establish 'satisfactory relations with [their] surroundings,' implying that the importance of ideas is contingent primarily

on their efficacy.¹³ From an evolutionary standpoint, this proposition attaches a major incentive to discerning the truth, for under such an assumption, identification of the truth is directly associated with progress.

John Dewey, an American philosopher and psychologist, recognized as the third founder of pragmatism (alongside Charles Pierce and William James), once remarked that “Pierce wrote as a logician and James as a humanist.”¹⁴ By this, Dewey was referring to James’ development of Pierce’s ambiguous conception of the truth, as not only a vague characterization of reality, but as a means to improve the human condition. James specified the meaning of truth as ‘that which is in the best interest of humanity,’ and in doing so, advanced pragmatism from a mere philosophy concerned with the identification of truth to a practical doctrine on how to address the truth after its identification.

By the early twentieth century, pragmatism was widely accredited as a philosophical theory. The next step was to extend pragmatism from the purview of the philosopher to the podium of the policymaker.

II

The People’s Republic Under Mao Zedong:

A Context for the Implementation of Pragmatist Theory

By Deng Xiaoping’s ascension to General Secretary of the Chinese Communist Party (CCP) in 1978, China was in a state of rampant political, economic, and social decay. It had not always been so; the first decade of Mao Zedong’s regime, from 1949 to the late 1950s, had seen modest signifiers of success.¹⁵ Under Mao, class inequalities were somewhat leveled with Soviet-like collectivization and property-redistribution reforms,¹⁶ a Five-Year Plan was implemented to enhance Chinese agriculture for economic growth, and civil reforms were set in place to accord women new legal rights, including a policy allowing women to leave an unhappy marriage. All of this transpired under the inflexible guise of Maoism—Mao’s adaptation of communism to Chinese society.^{17 18}

In stark contrast to the initial years of Mao's regime, the subsequent two decades were predominated by famine, poverty, and totalitarianism. In 1957 and 1958, Mao launched a second Five-Year Plan, more commonly known as the Great Leap Forward, a campaign intended to transform China from an agrarian economy to a communist society through rapid collectivization and industrialization.¹⁹ To streamline the agricultural industry, the state forced collectivized farming on state-run communes. Whereas cooperative farming had merely been encouraged beforehand, those who did not comply with the policies of the Great Leap Forward were labeled counter-revolutionaries and persecuted by the state.²⁰ Mao also authorized the implementation of unproven agricultural practices in the countryside in an attempt to multiply grain yields and increase production, which ravaged the agricultural industry.²¹ Forced collectivization was accompanied by government mandated industrialization, which relocated millions of peasant laborers with inadequate training or knowledge for factory work from the countryside to cities which had not yet developed industrial machinery. By 1962, the disastrous policies and reforms of the Great Leap Forward had resulted in the Great Chinese Famine, which is estimated to have killed between 20 to 45 million people.²² Nevertheless, there was no visible accountability from high-ranking officials, who did not dare to report the economic disaster resulting from the policies of the Great Leap Forward, and instead blamed the decline in food output on droughts, floods in farming regions, and other natural disasters. Mao himself insisted that the failure of the Great Leap Forward was a consequence of poor implementation of the plan's original idealistic vision and the insidious efforts of counter-revolutionaries.²³

The ensuing deliberations among the CCP, which centered on how to reconfigure the CCP's fiscal policy, were dominated by moderate politburo members like Liu Shaoqi and Deng Xiaoping, who supported market-oriented reforms to end food shortages and restore the Chinese economy. Mao vehemently opposed these developments, and proclaimed that the party, as well as the government, army, and cultural circles, had been infiltrated by counter-revolutionary revisionists and members of the 'exploitative bourgeoisie', removing it from the people and their Marxist-ideologue representatives. In 1966, in order to purge Chinese society and the Party of all bourgeoisie ele-

ments, Mao launched the Cultural Revolution, which the CCP itself, in a document titled “Resolution on Certain Questions in the History of Our Party Since the Founding of the People’s Republic of China”, has since recognized as ‘responsible for the most severe setback and the heaviest losses suffered by the Party, the state and the people since the founding of the People’s Republic.’²⁴

The Cultural Revolution sought to reinstate devotion to the ideals of Maoism among both the party and the people. The former was achieved by removing senior party officials with questionable allegiances to the communist cause, including Liu and Deng, from leadership positions and replacing them with less qualified Maoist apologists. Similarly, bureaucrats with technical expertise in governance were replaced by cadres composed of ideologically committed, lower ranking CCP members. In a sense, the Cultural Revolution came to represent the disastrous consequences of selecting party members based on ideological affiliation over merit; by 1976, the CCP was fraught with corruption and instability, which ultimately triggered the culmination of Mao’s reign.²⁵ The state mobilized a number of tactics to reinstate widespread devotion to the ideals of Maoism; in a deliberate transition from authoritarianism to totalitarianism, the CCP set forth activists to relaunch fervent class struggle against all capitalist beneficiaries of the system.²⁶ A multitude of violent incidents erupted throughout China as Red Guards, members of a student paramilitary organization, mobilized under Mao’s guidance, indiscriminately attacked citizens wearing ‘bourgeoisie clothes’ and assisted in the murders of hundreds of thousands of counter-revolutionary intellectuals and party officials. Mao’s persona was augmented into a personality cult, and depictions of the Chairman were imposed on all elements of Chinese society, from public squares to private homes. Party newspapers were propagandized, depicting the mobilization of the masses as a monumental struggle that would spur an unwavering wave of allegiance to the original ideals of the People’s Republic. One editorial wrote, “Like the red sun rising in the east, the unprecedented Great Proletarian Cultural Revolution is illuminating the land with its brilliant rays.”²⁷ In justifying the fervor surrounding the onset of mass mobilization, another CCP newspaper wrote that, “the power usurped by the capitalist-roaders could be recaptured only by carrying out a great cultural revolution by openly and fully mobilizing the broad masses from the bottom up to expose

these sinister phenomena; and that the cultural revolution was in fact a great political revolution in which one class would overthrow another, a revolution that would have to be waged time and again.”²⁸

As was later acknowledged by the CCP, the Cultural Revolution was utterly destructive to the Chinese economy and politics; by its denouement, the decade from 1966 to 1976 had been irrevocably stained with bloodshed, starvation, and economic stagnation. Moreover, and of greater concern to this paper’s objective, the policies of the Cultural Revolution, particularly when considered in conjunction with the ‘progress’ of the Great Leap Forward, were central in discrediting and stigmatizing communist policies as implemented in China.²⁹ This disillusionment did not emerge from one cause alone, but was engendered by a host of fundamental issues with the CCP’s policies over nearly three-decades. Collectivization, as a system lacking both incentive and a self-enforcing contract between laborers, was proven inefficient and unsustainable. Government mandated industrialization demonstrated that command economies can not apprehend supply and demand in the market nearly as well as free market economies, and as a result, invariably suffer from overproduction or underproduction of certain goods—as evidenced by the Great Famine and economic stagnation in the 1960s and 70s.³⁰ The failure of industrialization further served to expose the many complications of the top-down method; in fact, later CCP policies indicate that the success of industrialization is highly contingent on individual initiative as opposed to state initiative.³¹ Moreover, CCP policies during the Cultural Revolution revealed the disastrous consequences of placing unqualified ideological devotees in stations of political influence; for the CCP, doing so only led to magnified corruption and mismanagement among the bureaucratic and legislative elite. Such policies are the very antithesis of pragmatism, for they represent a resolute unwillingness to compromise on any particular policy matter which misaligns with preconceived ideological convictions. And as exhibited time and time again by the policies and leadership of the People’s Republic under Mao Zedong, such an approach to government is incompatible with any aspiration for modernization or progress. Communism had failed the People’s Republic in every possible way, and for the government which succeeded Mao, a perceptible severance from the restrictive doctrines of Maoism was the only conceivable way forward.

III

Pragmatism in Practice Under Deng Xiaoping

When Deng Xiaoping succeeded Mao as General Secretary of the CCP in 1978, he inherited a seemingly insurmountable host of challenges: an impoverished agricultural people, an irreparably corrupted government, a stagnant economy, and a nation still recoiling from the ravages of totalitarianism. Nevertheless, Deng's ascension to power marked a historical change in government: Deng famously rejected Mao's uncompromising adherence to the ideological doctrines of communism and embraced the pragmatic approach, justifying the implementation of policies contradictory to the ideals of communism on the basis of their effectiveness. Application of pragmatist theory occasioned rapid modernization and economic growth in China, processes which have continued to exhibit unprecedented success ever since their inception.

In December 1978 at the 3rd plenum of the 11th Central Committee, Deng launched a series of reforms known as 'The Four Modernizations' to gradually modernize China through advances in agriculture, industry, national defense, and science and technology. These policies became the impetus for China's transformation from an impoverished, agrarian economy into an industrial powerhouse over the past four decades.³²

The first modernization, which was effectively a reversal of the government-mandated collectivization enforced under Mao's regime, prioritized the restoration of agricultural markets. This was accomplished by converting former communes into public township or village enterprises (TVEs), market oriented companies based in rural communities throughout China. TVEs had an almost instantaneous impact on the economy; due to their flexible organizational structures and varying levels of autonomy from local government oversight, TVEs swiftly contributed to rural economic growth, raised rural incomes, generated fiscal revenues for local governments, and helped bridge rural-urban economic disparities.^{33 34} TVEs were not only a success in terms of per-capita production, but served as a long awaited solution to the labor surplus issue produced by collectivized farming. Unemployment was reduced as rural laborers hastened to join TVEs.³⁵ Aside from TVEs, farmers launching

new agricultural enterprises were permitted to choose to continue farming individually or collectively. Furthermore, profits earned from the sale of produce were consigned to farmers, effecting an increase in productivity among the peasantry.³⁶ Ultimately the sudden success of TVEs and other free-market enterprises posed a threat to state-owned enterprises (SOEs), driving the process of marketization, thereby influencing China's transition from a command economy to a market economy.³⁷

Alongside agricultural reform, the Four Modernizations prioritized the reform of industry, another key component of China's transformation into an industrial powerhouse. The passage of industry-reforming legislation in the late 1970s authorized factories to set prices based on supply and demand in the market, which not only created greater efficiency in terms of what was produced and in what quantity, but incentivized innovation, leading to the production of superior goods.³⁸ This was particularly important in the production of mining tools and military weapons, which expedited the modernization of the Chinese military—a principal element of the third modernization.³⁹ The correlation between dismantling a command economy and the outgrowth of productivity is by no means exclusive to China— the same trend was evident in the Soviet Union in 1985, just years after the Four Modernizations were enacted, after Mikhail Gorbachev became the General Secretary of the Communist Party of Russia and launched a program of economic liberalization.⁴⁰

Industry reform in the late 1970s and 1980s consisted of two primary elements, encompassing a liberalization of the 'factors of production' and the 'Opening of China', or the embrace of globalization. In stark contrast to the inhibitory trade policies of the pre-modernization era, which restricted all but the exportation of manufactured goods, the CCP's 'new era' gradually entered China into the global economy, inviting foreign investment through the institution of Special Economic Zones (SEZs), tariff free regions where multinational corporations were permitted to conduct business in China.⁴¹ Deng's embrace of globalization had a profound and long-term impact on China's economy. According to a report by the World Bank conducted in the 2010s, 'SEZs have contributed 22% of China's GDP, 45% of total national foreign direct investment, and 60% of exports. SEZs are estimated to have created over 30 million

jobs, increased the income of participating farmers by 30%, and accelerated industrialization, agricultural modernization, and urbanization.’⁴² Aside from offering a promising model for economic growth, these statistics exhibit the steadfastness of the pragmatist theory. During Deng Xiaoping’s reign, the CCP resolved to override the doctrines of Maoism in order to optimize economic growth and productivity, and the results are self-vindicating.

Perhaps the most influential practice the CCP employed to override the doctrines of Maoism was terminating the ideological purges which had gained notoriety as hallmarks of the Cultural Revolution. In accordance with pragmatist theory, state officials were no longer selected based on their ideological commitment to Maoism, but on expertise and effectiveness alone. This policy, (or reversal of policy), reinstated China’s culture of social promotion based on merit and led to the reemphasis of education, prompting Deng to reopen numerous universities across the country. By 1984, college graduates as a percentage of party membership had risen to 50% from just 25% in 1974.⁴³

As referenced above, the fourth element of the Four Modernizations, innovation in science and technology, was partially undertaken to diversify, and ultimately supplant, China’s reliance on the exportation of manufactured goods in order to give rise to an innovation-based economy. The CCP recognized that to do so, a greater degree of privatization was in order, and allowed entrepreneurs to start new businesses and to source capital for these ventures from foreign investors and corporations. The CCP went a step further in 1986, and invested in institutions responsible for promoting the development, research, and adoption of innovative technologies. Among these was the National High Technology R&D Program, also known as the 863 Program, a research enterprise promoting initiatives tasked with “closing the technology gap” and incorporating advanced technologies into a diverse array of sectors to ensure China’s financial independence from other nations in technology, science, engineering, and mathematics.⁴⁴ China’s progress in the energy, high-tech manufacturing, and transportation industries confirm the success of the CCP’s newfound emphasis on technological innovation.⁴⁵

Today, over 54% of China’s GDP is produced by the services sector, which

comprises industries such as transportation services, investment services, information services, healthcare, arts, and entertainment. The growth in China's service sector reflects the emergence of a consumer class with sufficient means to invest in services. This analysis is corroborated by a 2012 survey which indicates that urban households spend upwards of 40% of their consumption on services such as education, health care, entertainment and travel, up from 20% 20 years prior.⁴⁶ Such a trend is indicative of an increased average standard of living—a sure marker of economic growth. Moreover, the private sector has supplanted the state as the primary source of growth and productivity, indicating the emergence of a more innovative, less statist society. State-Owned-Enterprises have fallen to the foreground, and the private sector is now responsible for 90% of exports and $\frac{2}{3}$ of China's GDP.⁴⁷ While statism remains a prominent element of Chinese political culture, considering the availability of free public healthcare and nine years of compulsory education, the success of the private sector in the modern age offsets the statist elements with a notable degree of autonomy.

On the GDP front, from 1978 to 2014, China experienced an average GDP growth of nearly 10% per year, in turn raising GDP per capita almost 49 fold, from 155 current US Dollars in 1978 to 7,590 US Dollars in 2014. This growth lifted 800 million people out of poverty—a historically unparalleled achievement.^{48 49} Ultimately, the influence of pragmatist policies on China's emergence as a world power is undisputed. As evidenced by rapid GDP growth, the emergence of an urbanized consumer class, China's progress on the scientific and technological front, and an annual military budget of \$2.37 billion, the economic and political influence of the People's Republic is second to only the United States in the modern era.⁵⁰

IV

Assessing Pragmatism in China: Archetype or Anomaly?

In 1980, the renowned economist Milton Friedman produced a ten-part broadcast series on public television, *Free to Choose*, to advocate for free market principles.⁵¹ In this series, Friedman observes Hong Kong, still a dependent

territory of the declining British Empire, as a laboratory of the free market system. Hong Kongese capitalists and entrepreneurs, recognizing the lack of natural resources in Hong Kong, utilized the lack of tariffs on imports or exports in the South China Sea to develop robust trading networks, and the Kowloon Peninsula soon emerged as a hub of commerce for the rising economic power. This success resulted in a territory with one of the highest standards of living in all of Asia: Hong Kong's GDP per capita rose nearly eight-fold, from 5,700 USD in 1980 to 49,661 USD in 2021.⁵² According to Friedman, the force underlying the productivity of the region was free market economics. Unlike the command economy of Mao's China, Hong Kong businesses were necessarily able to anticipate supply and demand in the market, promulgating a steady culture of productivity. Beyond basic trade and production, the emergence of Hong Kong as an economic powerhouse spurred a series of modern innovations as Hong Kongese entrepreneurs sought to combat the West in technology and science, thereby affecting Hong Kong's emerging reputation as an innovative center.⁵³

Rather than merely exhibiting economic growth in Hong Kong, Friedman's documentary imparts a more general message: Hong Kong can be viewed as a microcosm of sorts, a downscaled model of China's paralleled growth in the same decades, for the success of free market policies Friedman documented in Hong Kong was closely replicated in much of China. As exhibited by Friedman's work, Deng's pragmatic policymaking is by no means actionable in China alone; rather—as proven by its Southern neighbor—a predictor of success beyond the borders of the People's Republic.

It must be noted that this essay's objective in documenting economic growth in China and Hong Kong is not to evince the superiority of the free market system over the command economy, *per se*. The free market system is merely a mechanism by which the success of pragmatist policy is best exhibited in the case studies of China and Hong Kong. Ultimately, this essay serves to provide an account of political pragmatism: the recognition that the merit of political ideologies is reliant solely on their functionality, a correspondent repudiation of dogmatism, and the will to occasion historical change for the betterment of society. Deng Xiaoping's implementation of pragmatist policies offers not only

a replicable template for economic growth and prosperity, but immortalizes those who partook in the philosophical tradition responsible for pragmatist theory, preserving their memories in the impact of their thoughts. This is as unsurprising as it is poetic: a pragmatist would have it no other way.

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The Ideal Legal System

Ari Unger '25

During the Enlightenment, John Locke was one of many Enlightenment thinkers who theorized about government and human rights. His ideas were influenced by the predominance of monarchies in Europe throughout the seventeenth and eighteenth centuries, many of which were embroiled in constant political and social conflict. Among the philosopher's students was Thomas Jefferson, who drew on Locke's work extensively in the founding of America. The first two chapters of Locke's *Second Treatise* state basic rules for government. Locke writes about the function and operation of his preferred judicial system, and argues that a government should function in the people's good will, and not as an extension of the monarch's will.¹ In this essay, Locke's ideas will be examined and evaluated in order to determine how a judicial system should ideally function.

In his first chapter, Locke establishes that neither Adam nor anyone claiming to be in a line of succession stemming from Adam has the right to rule over the others with absolute power. From this, it can be seen that Locke contests the divine right of kings, or the idea that a monarch derives his authority from God, and therefore his decisions are not subject to systematic checks by institutions like Parliament. The theory of the divine right of kings contradicts the axiom that everyone is equal, because a king is naturally greater than others due to his divine power. As Thomas Jefferson, a student of Locke, expressed in a letter to Roger Whitman, "the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them

legitimately.”² Locke establishes that a leader leads from their ‘political power’—the right to make and execute laws, which must be done for ‘the public good.’ This is the main distinction between a magistrate and a political leader—both can make laws, but a political leader is required to do so for the communal or public interest.³ It can be assumed that if a leader is not using his powers for the public good, usurping the leader is justified. This idea is supported by the Declaration of Independence, which states, “whenever any Form of Government becomes destructive of these [democratic] ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”⁴ This excerpt suggests that whenever a government no longer serves the people, it should be abolished and a new one should be instituted. As established by Locke and the Declaration of Independence, if a leader fails to lead for the public good, the people have the right to usurp him.

The idea that any individual should have the power to punish those who violate the law is problematic: if any person is able to punish someone else, there is an inherent assumption that the punisher is fair and just. However, it is impossible to make this assumption, since it is impossible to truly account for someone’s motives. They might act as if their motives are just and pure when in reality, they’ve been bribed. Even more so, the idea of an individual judging others can lead to corruption, wherein those in power ‘punish’ others as an excuse to harm them. Locke opposes such a system by arguing that absolute monarchs are just men empowered to make decisions for their country. The theory that absolute monarchs are just men endowed with the power to make absolute decisions for a country is flawed, because it simply does not provide a viable defense.

In his Second Treatise, Locke supports the belief that men cannot judge themselves due to their partiality. He concludes that a civil government, which is made for the purpose of protecting its citizens, and protects their natural rights. It can therefore intercede in order to “restrain the partiality and violence of men.” However, this notion would not work in practice, because Locke does not distinguish between the cases civil governments should judge and

the cases which can be worked out by men without governmental interference. It would be impossible for the government to be involved in every single case: legal disputes occur far too often. In today's world, not every dispute is handled by the police, and not every perpetrator of a conflict is thrown in jail. It would simply be impossible for a country to function in such a way.

Locke attempts to establish the premise that humans are always in a 'state of nature,' and as a result, natural laws always apply to us.⁵ Locke justifies his assertion that mankind is always in a state of nature based on the idea that we can never truly escape our primal instincts. Regardless of our circumstances, we will always have an animalistic nature, and by extension, create a state of nature in our surrounding society. Therefore, it is impossible for one judge alone to handle a legal case, because one judge may be misled by their primal instincts. In a jury of several people, all members of the jury can ensure that their fellow jurors are reasonable and just.

The ideal legal system must benefit the population, and if it hurts the people, it should be restructured. In a legal system, there must also be an established way to determine whether the alleged perpetrator of a crime should be punished. If a random person testifies that they saw a crime, the jury should not have the right to punish the person. This would be an unjust system, which opens up ample opportunities for corruption. Corruption is like a contagious disease: once it finds a foothold it will inevitably spread. Regardless of its origin, corruption can have very negative consequences.

The ideal judge should be well qualified for the position and appointed by the state. If they don't have the proper schooling, they potentially lack the ability to make moral or ethical decisions and should not be permitted to exercise judicial power. By being educated in philosophy, ethics, and similar disciplines, judges are able to make just decisions based on the ethical values of their society rather than on their personal moral values. Moreover, it is important that the person judging should have others making the decision with them due to the assumption that men are always in a state of nature, and have a primal instinct within them. This instinct can be overpowering and all consuming. Therefore, part of the job of a judge should be to ensure that their as-

sociates do not let this instinct overtake them.

A state's bureaucracy would not be able to function if they handle every dispute or argument. Yet most legal systems today are overloaded with cases that could be handled by people without governmental interference. This is why a judicial system should only handle serious cases that affect the public good, such as criminal cases or business cases that affect an industry. Serious business disputes should be settled by consulting laws and statutes, which can be enforced by the government. This would allow the legal system to function efficiently, and would prevent the bureaucracy from being overloaded. It would also allow cases to be considered and tried in a timely fashion, instead of being pushed off for years to come.

The ideal judicial system is simple in theory and easy to implement in reality. Judges must be well schooled in ethics, and the only cases judged should be those which affect the public interest. The legal system must benefit the people, and if the system disregards the will of the people, it should be abolished.

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Leadership in Crisis

Rafi Unger '25

When COVID-19 turned into a pandemic that shut America down in 2019, one thing was clear: America was in crisis. When COVID started, President Donald Trump was president of America. In 2020, President Trump was succeeded by President Biden. Eventually, the COVID-19 pandemic abated while Biden was President. However, during this crisis, both presidents needed to be stronger leaders. During the summer of 2020, there were protests and riots in response to the killing of George Floyd. In 2022, inflation increased significantly, and Russia invaded Ukraine. While all of these events occurred, America became highly politically polarized. After outlining all that has happened since the COVID-19 pandemic, it is clear that America is in a crisis. The only way for a country to emerge unscathed from a crisis is to have a great leader who can unite the country and understand how to navigate disaster. If one looks back in time, one will find leaders who have successfully led America through disaster, and if they were still alive today, they would potentially be able to lead America through its current crisis.

George Washington is someone who led America through times of uncertainty. He led America through the Revolutionary War and for the first eight years of its existence. To understand the model Washington offers as a leader, one must look back to Julius Caesar and Cato the Younger, leaders vying for power and control of Rome. Caesar wanted to rule Rome as a tyrant, while Cato the Younger wanted Rome to remain a Republic. This disagreement regarding the form of government Rome should take led to war between Caesar and Cato the

Younger. Cato killed himself because he did not want to live in a world where Caesar would rule as a tyrant since he considered such a world immoral. However, when Cato killed himself, he left his followers devastated and without a leader.¹

On the other hand, Caesar had a love for power, but he was more than just a power-hungry leader. Despite not being in good health when he was young, Caesar served in the military. Caesar made sure to live a life similar to the men he commanded rather than a life of privilege.² George Washington is a bridge between both Caesar and Cato. Like Cato, Washington was moral; as Chernow put it in *Washington: A Life*, “Washington never tired in his efforts at moral improvement.”³ Washington also shared Caesar’s ambition. When Washington was young, before he was part of the Continental Army, Washington was part of the British Army. Washington desired a Royal Commission and was ambitious while in the British army. However, Washington controlled his ambition, and later when the leader of the Continental Army became president, he never threatened to become a tyrant like Caesar. However, Washington needed the ambition of Caesar to reach the position of power that he did, but Washington’s ambition was tempered with morality. Washington’s morality stopped his ambition from taking hold of him and making him a power-hungry leader. Therefore, Washington offers a powerful ideal of a leader: one with enough ambition to reach for positions of power but also one with enough morality to know what is suitable for their country and not let their ambition control them.

Some believe that the best leader is the one who never wanted to lead in the first place and was pushed into positions of power. This leadership model excludes the ambition one needs to obtain a position of power. Those without ambition will shrink from the moment when in a crisis and wonder why they are there. The leader with ambition will rise to the moment and know this is why they became a leader in the first place; they could make decisions in difficult times that will benefit their country.

Others will argue that a leader can not be moral, for when a leader needs to make a tough decision, they will not be able to, for they will be too worried if

what they are doing is the right thing. In other words, if a moral leader needs to make an immoral decision that will benefit the country, they will not be able to do it because it will violate their ideals. However, one must realize that a moral leader who is also ambitious will be willing to violate their ideals to do what is suitable for the country, for doing something beneficial to their state will help them remain in power and be remembered as a good leader.

However, to be a great leader, one cannot just be moral and ambitious but also humble. They can not be so humble that they always defer to others when they know best. However, they are humble enough to know that when a decision is required in a field in which they are not an expert, it is best to look to an expert in that field and, using their knowledge, make the correct decision in that situation. However, most people are not naturally humble. One way to ensure that a leader is humble is to be religious, forcing that person to thank someone else for the good that happens to them. Religion makes one realize that no matter how powerful they are, there is always an entity that is greater than them. It is important to note that Washington was a religious Christian. Humility will also allow leaders to admit when they are wrong and not make a bad decision.

Ambition, morality, and humility are all necessary characteristics of a leader in a crisis. However, there is one more attribute this leader must have. This attribute is quite apparent but still important to discuss. A lot of people struggle with keeping one's cool while under pressure. A leader must be able to keep their cool in a crisis. While in crisis, a leader will constantly be under pressure, and if he can not handle the pressure, he will not be able to make any decisions regarding his country's well-being. There is a well-known proverb: "if you cannot handle the heat, get out of the kitchen." This proverb means that if one can not deal with a stressful situation, one should leave it alone and let someone else handle it. This proverb is especially pertinent to a head of the country who is dealing with a crisis.

A leader in crisis must also be a great orator. While in crisis, most citizens of whatever country they reside in will get extremely worried. In some cases, this worry can lead to riots and mass unrest. Therefore, a leader needs to be able to

comfort the people who elected him and assuage any citizens who might have worries. Being a great orator also helps a leader get elected to office. A leader in crisis must be intelligent and courageous to deal with any issues his country might face.

For a leader to lead in a crisis, he must have an excellent speaking ability and be moral, ambitious, humble, and calm under pressure. Now that it is established what characteristics a leader in crisis must have, let us consider how such a leader would deal with the current problems facing America. If COVID-19 was still an ongoing pandemic, and an excessive number of people were severely suffering from it in America, our leader in crisis would first, using his morality, understand that whatever decision he would make, he would do so to save the most lives possible. Recognizing that he could be more knowledgeable in medicine, he would appoint an advisor to inform what decision would be best for the American public. However, due to his ambition and desire for power, he would not let this doctor make decisions independently. Before being released to the public, every recommendation would be vetted by our proposed leader in a crisis.

He would also give daily press conferences and comfort and reassure the public, much like disgraced New York Governor Andrew Cuomo was heralded for doing at the time. In a crisis like COVID, keeping calm under pressure would greatly benefit this leader, as he would not panic facing an unknown disease that was landing people in the hospital left and right. Therefore, for every decision he would make, he would not rush into it. For example, due to COVID-19, the public school system was shut down. Many students' education and social development were damaged due to this. At first, this shutdown might have been prudent due to just how much of an unknown COVID-19 was. After knowledge regarding COVID-19 was obtained and some time had passed, our proposed leader in crisis would have promptly reopened school systems. He would have been relaxed under pressure and not wilted at those who said the reopening might worsen the pandemic. If the reopening worsened the pandemic, this leader would immediately recognize his mistake and close the school system. However, his worry for the student's development would triumph over how unpopular a decision would be to reopen. It is important to

note that due to the daily press conferences, the public would understand why this leader was doing what he was doing and agree with him.

Many leaders during the pandemic did some of these things—Donald Trump created a task force to deal with COVID-19 and appointed experts to make health decisions regarding COVID-19. However, he did not speak at daily conferences to reassure the American public. Other leaders during the pandemic would go out to restaurants and parties even though they were telling the people they represented to stay inside.

Another example of how a leader in crisis would deal with a problem is that if one were to take the economic inflation that is now pervading America, this leader would first acknowledge the situation. Since he is moral, he would do all he could to help the population affected by this inflation. He would keep calm and recognize that inflation is an issue that has faced many economies and that the best way to deal with it is to go to the experts and ask what they suggest he do. He would then make inflation a priority of his to fix because this leader would recognize that inflation could hurt his chances at reelection. Now, if he cannot solve this inflation problem, he would do all he could to address it with the people he leads and try to calm anybody who is panicking down to stop any economic panic from occurring. For example, he would try to prevent stock prices from dipping tremendously by effectively comforting the public.

Finding a leader who fulfills all of these requirements will take much work. Nobody is perfect, and when one is in power during a crisis, their mistakes and issues can be exacerbated. That is why the ability of a leader to surround themselves with the right people could be the difference between them successfully handling a difficult situation. A great leader with horrible advisors will make mistakes and not lead his country down the right path. However, a great leader with great advisors will lead his country well, especially in a crisis. George Washington was, inarguably, a great leader, but he was also surrounded by other excellent and intelligent people, like Thomas Jefferson and Alexander Hamilton. Great people thrive among other such people. Great people will not thrive among terrible people. The same is true for leaders in crisis.

As America faces whatever comes next, there is hope, purely because if one looks through the past few years, it does not appear like it can get much worse. However, it will continue to get worse if nobody steps up. America is in a crisis and can only end if confronted by the right people. It does not have to be one person who is both moral and ambitious, keeps calm while under pressure, has humility, and can be a great orator. If one person does not fit the bill, that is fine. It is okay for many people, each with something to offer, to deal with the crisis together. It is much better than one person who is ill-equipped to deal with a crisis to be a leader. It is easy to look back and see what a leader did right and wrong. However, these leaders who can successfully deal with crises are few and far between. Instead of waiting to be saved by one of these people, it is better for America to solve its problems, for if everybody is waiting for a great leader, he will never come.

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Effects of COVID-19 on Screen Time and Eye Soreness

Eitan Rochwarger '23

The COVID-19 pandemic has led to a significant increase in screen time for people of all ages, as many have been forced to work, study, and socialize from home. With limited options for outdoor activities and face-to-face interactions, screens have become the primary means of communication and entertainment for many. However, prolonged use of screens has been linked to eye strain, headaches, and other vision problems. In particular, blue light emitted by screens can disrupt sleep patterns and cause eye fatigue, leading to a condition known as “digital eye strain.” With the pandemic still ongoing and remote work and learning remaining prominent, it is important to take steps to reduce screen time and practice good eye health habits to prevent long-term damage to our vision.

The pandemic is known to be transmitted through one’s mouth, nose, or eyes,¹ which led many people to stay home rather than risk contracting the virus.² Many heavily relied on technology to continue their lives: meetings were moved to online settings, grocery shopping was delivered straight to front doors, gyms were moved to living rooms with virtual trainers, etc. All of these changes have a couple of things in common: their reliance on technology and their accessibility. People have been living life this way since the pandemic, and studies are showing that many of them don’t really want their lives to go back to what they were before.³ In addition, the increased screen time is effectively destroying families. A survey conducted by the American Academy of Pediatrics (AAP) concluded that over a quarter of parents of children eighteen

and younger reported worse behavior and mental health as a consequence of the pandemic.⁴ Inevitably, technology was bound to be a problem, yet the pandemic only expedited the switch to digital services—likely too quickly.

A major concern related to the increase in screen time over the pandemic is the likelihood of more people's eyesight deteriorating. The term most commonly used for one of the dangers associated with excessive screen time is "blue light", or the blue wavelengths on electronic screens. According to an article published by the Harvard Medical School, blue wavelengths help with focusing during the day, but cause many issues for those exposed to it at night.⁵ Stephen Lockley, a Harvard researcher, noted that exposure to [blue] light at night is part of the reason so many people don't get enough sleep. Additionally, researchers have linked short sleep to increased risk for depression, diabetes, and cardiovascular problems. Seemingly, one who spends long periods of time on electronic devices, especially within a couple of hours prior to sleeping, increases their risk for various health complications. The COVID-19 pandemic has put people at risk for this exact situation. People being forced into lockdown, not being allowed to leave their house for weeks, without any separation between work and family life all lead to people (especially children) being left on their own with their electronic devices.

The increased screen time brought about by the COVID-19 pandemic has raised concerns over its potential physiological effects on the younger generation. A recent survey⁶ conducted across different age groups revealed that 89% of participants reported an increase in their screen time during the COVID-19 pandemic, with the majority of the increase attributed to social media use. The most commonly used device was the smartphone, with 90% of participants reporting that they primarily used their smartphones for social media.

Social media has been identified as a cause for concern, particularly for younger generations. Many studies have shown that social media can have negative effects on mental health, leading to an increase in depression, anxiety, and sleep disturbances. One of the main reasons for this is the addictive nature of social media. According to Healthline,⁷ a prominent medical website, social media triggers the release of dopamine, a neurotransmitter that is associated

with pleasure and reward. This creates a cycle of addiction, as users are constantly seeking pleasurable feedback from social media posts and videos.

The COVID-19 pandemic further fueled the rise in social media use, with many people turning to social media as a substitute for outdoor play and in-person connections. In an article published by Penn Medicine,⁸ Jeremy Taylor PsyD explained that social media became a reality for many people who were under lockdown or staying at home full time. However, he cautioned that social media is not representative of reality, as it promotes significant amounts of misinformation and perfectionism that is not reflective of human nature.

To address this issue, it is essential for one to manage social media usage and seek alternative ways of maintaining mental and physical well-being. Setting boundaries around social media use and finding alternative activities that are more meaningful and fulfilling can help break the cycle of addiction. This was very difficult during the COVID-19 lockdowns due to the lack of separation between work life and one's home/family life. Previously, one associated their office with their work life and all work related materials stayed there. The pandemic introduced a whole new system. Some companies no longer see/saw it as necessary to own office space when their workers can fulfill the same tasks from the comfort of their own homes. One of the major issues with this is the lack of face to face (in person) contact between coworkers. Meetings moved to online video conferencing exposes workers to screens more often. Many parents who were forced to work from home used the same platforms their kids used for virtual classes and learning. Students were frequently told to stay in front of the screen even though it could harm them, and worse, assure them that screen time is not an issue. Overall, while the COVID-19 pandemic has brought about an increase in screen time and social media use, it has also highlighted the need to manage these behaviors to maintain our overall health and well-being.

The increased screen time due to the COVID-19 pandemic has not only affected mental health but also physical health. A survey of 435 participants⁹ revealed that 81% of them experienced at least one symptom of eye soreness/fatigue. These symptoms included dry eyes, eye strain, blurred vision, and

headaches, all of which are associated with extended screen time. With remote work and virtual schooling becoming more prevalent, it's becoming increasingly important to take steps to protect our eyes.

One solution to prevent eye soreness and fatigue is to maintain correct posture while sitting at a desk or using a device. It's also recommended to take a break from technology every four hours to give your eyes a rest. Investing in glasses that minimize the risks of blue light can also help reduce eye strain and fatigue. Many eyewear companies offer specialized glasses that block or filter blue light, which can be purchased online or in stores. There is doubt as to whether these glasses truly make a difference though.¹⁰

Taking these measures seriously is crucial to prevent long-term physical health complications, such as eye damage and vision problems. It's important to note that prolonged screen time has a cumulative effect on eye health, and the symptoms may worsen over time if not addressed. It's also essential to visit an eye doctor regularly to ensure good eye health and to address any issues before they become more severe.

The COVID-19 pandemic has dramatically altered the way we live our lives. From social distancing and mask mandates to remote work and virtual education, the pandemic has forced us to adjust our daily routines and habits. The pandemic has also brought to the forefront a host of issues that were previously overlooked or marginalized, including our overuse of technology leading to worsened eyesight. The pandemic has affected almost every aspect of our lives, including our physical, emotional, and social well-being, and will likely have long-lasting effects even after the pandemic has ended.

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