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Social Activism

New Challenges in a (Dis)connected World

*Edited by Sandro Serpa
and Diann Cameron Kelly*



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Published in London, United Kingdom

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<http://dx.doi.org/10.5772/intechopen.1000305>

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First published in London, United Kingdom, 2023 by IntechOpen

IntechOpen is the global imprint of INTECHOPEN LIMITED, registered in England and Wales, registration number: 11086078, 5 Princes Gate Court, London, SW7 2QJ, United Kingdom

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library

Additional hard and PDF copies can be obtained from orders@intechopen.com

Social Activism - New Challenges in a (Dis)connected World

Edited by Sandro Serpa and Diann Cameron Kelly

p. cm.

Print ISBN 978-1-83769-878-3

Online ISBN 978-1-83769-877-6

eBook (PDF) ISBN 978-1-83769-879-0

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Preface

The publication of this book, *Social Activism – New Challenges in a (Dis)Connected World*, was based on the urgency of this issue, given that current societal commitments, such as the United Nations Sustainable Development Goals, social activism in all its forms has the potential to be a manifestation of active citizenship in a democratic society. This makes the study of social activism even more relevant today.

This book contains contributions from several dozen authors from Brazil, Germany, Ireland, Israel, Norway, South Africa, United Kingdom, and the United States. It is organized into three sections.

The first section, “Volunteering”, includes three chapters: “Volunteering and Virtue Ethics”, by Rafael Rodrigues Pereira; “Youth Volunteering: New Norms for Policy and Practice”, by Aileen Shaw and Pat Dolan; and “Working toward an Equity-Based Model for Volunteering and Service-Learning Projects in Higher Education”, by Daniel Bartholomay.

The second section, “Human Rights”, also includes three chapters: “Shari‘a Law and LGBTQIA+ People: More than Faith vs. Human Rights”, by Joseph Abraham Levi; “Beyond the Pen: Of Arrivals, Tricky Encounters and Activism in Vieques, PR”, by Víctor M. Torres-Vélez; and “Individual Costs and Civic Impacts of Social Activism in Music: Three Case Studies from Sub-Saharan Africa”, by Gardy Stein and Tatek Abebe.

Finally, the third section, “Justice and Legality”, includes five chapters: “Categorization and Normalization of the (In)Formal Settlements in the Contested Greenbelts of the Greater Durban Area (South Africa)”, by Sibonakaliso S. Nhlabathi; The “Affordable Food” Deception: How the Real Costs of Pesticides Are Hidden, and Food Justice Is Being Obstructed”, by Peter Clausing and Brian Garvey; “The Chilean Student Movement and the Bio-Politics of Existence: New Patterns of (re)Politicisation in a Post-Authoritarian Society”, by Ivette Hernandez Santibañez; “Legal Reform or Regime Coup? Three Stages in the Evolution of Protest Signs in Israeli Social Activism”, by Alonit Berenson; and “War Crimes Compensation Claims: Charting the Challenges Faced by Civilian Victims and Their Advocates”, by Alexandra Fowler. These chapters provide the reader with valuable and current contributions to the scientific understanding of some relevant aspects of social activism.

This book would not have been possible without the trust that the chapter authors placed in the editors and in their assessment and suggestions for improving the submitted manuscripts, in a process that favored scientific quality and rigor. We believe that the final result is worthy of that trust.

We would also like to take this opportunity to express our gratitude to the staff at IntechOpen, particularly Publishing Process Manager Laura Divic, who provided

excellent support during the preparation of this book and always respected the scientific freedom of the editors.

May this book be a contribution to the discussion and development of the knowledge and consequent intervention inherent in social activism in various fields of action and in various forms, local configurations, and purposes. This book is a useful reference for the academic propagation of current research in the field and discussion on the challenges that the (dis)connected world of today presents for the study of social activism.

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Section 1

Volunteering

Chapter 1

Volunteering and Virtue Ethics

Rafael Rodrigues Pereira

Abstract

Volunteering can be understood as a morally worthy action that we perform because we want to. In this chapter, I argue that this feature of volunteering poses problems for modern moral theories centered on moral duty, such as utilitarianism and Kantian approaches. According to these theories, there are only three ways to explain what volunteering is: (a) the fulfillment of a basic moral obligation; (b) the supererogatory (heroic actions beyond duty); and (c) the morally permissible, usually related to a personal search for happiness. As I argue, none of these accounts make sense as accounts of volunteering. I then try to show how a virtue ethics approach is particularly helpful to understand what volunteering is and why it is important. Moral actions are not done from duty but upon a “call from the world,” which gives a special meaning to our own lives.

Keywords: volunteering, virtue ethics, moral duty, Kantian ethics, utilitarianism, the good life

1. Introduction

The idea behind volunteering seems to be acting in a morally good way-like doing civic services or fighting climate change-but because you want to and not because you must. While you will be praised for doing it, no one will blame you if you do not. As I argue in this paper, this feature of volunteering poses problems for modern moral theories, such as utilitarian and Kantian approaches, centered on the notion of duty. I also attempt to show how virtue ethics (VE) is better placed to account for volunteering.

For a duty-centered moral theory, there are three possible ways to explain volunteering. The first is the fulfillment of a basic moral obligation. However, this will not do because volunteering is understood as something we do because we want to, not because we must, and thus, we cannot be blamed for not doing it. Second, volunteering can be thought of as a supererogatory act, which means heroic actions that go beyond duty. I argue that this will not do either because volunteering often entails simple actions that do not involve self-sacrifice. Third, volunteering is understood as something we do because it gives meaning to our lives in a more personal sense. The problem with this interpretation is that it does not fit the distinction between morality and happiness, which is commonplace in modernity. Volunteering relates to both, in the sense of being something morally worth doing for “private” reasons, stemming from personal commitments that shape our lives-what Bernard Williams, as discussed later, calls a personal project. That is why a eudemonistic virtue ethics approach,

which challenges the modern distinction between morality and happiness, is better suited to explain what volunteering is. However, there are other reasons as well, which are discussed later in the document.

2. Morally obligatory, morally permissible, and supererogatory actions

A good starting point for our discussion is the notion of the supererogatory. An act is supererogatory when it is beyond duty, which means you are not required to do so, but it would be morally praiseworthy if you did. Judith Thomson captures this point well by distinguishing between the Good and the Minimally Decent Samaritan. She gives an illustrative example: the real case of Kitty Genovese, who was murdered in New York in 1964 while 38 people watched or listened and did nothing at all to help. Giving direct assistance to the victim, or fighting the murderer, would involve a risk of death for oneself, so it would be odd to say that the passersby were morally obligated to do so. However, there was no great risk in calling the police, for instance. Therefore, like in the biblical narrative, those people did not meet the basic moral standard. While fighting the murderer would be a heroic act only a Good Samaritan would do, calling for help is what we expect from the Minimally Decent Samaritan [1].

How do these concepts relate to volunteering? At first, the answer is not clear, for neither the Good nor the Minimally Decent Samaritan seems to capture the idea properly. On the one hand, as already stated, volunteering does not seem to be something we are morally required to do. On the other hand, it does not necessarily involve performing heroic actions either. Of course, sometimes, it can be so, like enlisting in the Ukrainian army to fight the Russian invasion. However, it does not always need to be heroic—raking leaves for an elderly neighbor or teaching English to immigrants are activities of relatively low cost to oneself.

The confusion stems from the fact that there are two ways for an action to be not “morally required” in modern approaches. One is supererogatory and the other is the class of morally permissible actions (i.e., neutral, neither required nor forbidden, and usually connected with the private search for happiness). This does not capture what volunteering is, for to treat these initiatives as morally permissible would reduce them to a kind of hobby, which does not do justice to the moral dimension we usually attach to them.

To get a better understanding of these matters, we need a little help from philosophical theory. In the following sections, I discuss how a virtue ethics approach is more suitable than the alternatives to appreciate what volunteering is and why it is important.

3. Volunteering and modern moral theories

The most influential modern moral approaches, even to this day, are Kantian and utilitarian theories. Originating in the Enlightenment era, for both, the dimension of moral obligation is central, but with very different consequences for the categories of what is obligatory, beyond duty, or morally permissible.

In the most basic formulation of utilitarianism, which is act utilitarianism, we are morally obligated to maximize the good from an impartial point of view. This means that the idea of something morally good, but which is not a duty, does not make sense.

Peter Singer, for instance, believes we are morally obligated to help poor people if this can be done without sacrificing anything of comparable moral importance [2]. Helping the poor, of course, is something we would usually count as volunteering, but not in the utilitarian sense of fulfilling a basic moral obligation. As observed before, volunteering seems to be something we do because we want to and not because we must. Therefore, utilitarianism seems to treat heroic acts as minimally decent behaviors. There are some strategies that utilitarians can use to mitigate this problem, such as the so-called indirect utilitarianism [3]. However, these are not good answers, and I hope a virtue ethics approach will make this clear.

Kant seems to deal better with this kind of issue, thanks to his distinction between perfect and imperfect duties. The ground for both is the categorical imperative, namely commands stemming from a universal pure practical reason. However, it is only in perfect duties (which are usually negative) that the categorical imperative prescribes specific actions. Imperfect duties, on the other hand, prescribe ends or maxims, and we have latitude or space (*latitudo*) to choose which actions to perform to fulfill them. As Kant himself stresses, this does not mean that we can allow exceptions to these obligations but only that more specific maxims (for instance, friendship as a specification of universal love) are necessary to prescribe particular acts, and the comparative weight of those maxims may depend on circumstantial factors [4].

For Kant, there are two basic imperfect duties: to develop one's talents and to contribute to the happiness of others. The latter, of course, fits our common idea of volunteering, as something we do for the sake of people in an altruistic manner or, in a broad sense, to make the world a better place. As stated previously, we usually do not see volunteering as a basic obligation, something we must do, or something we should be reprehended for not doing. But the Kantian notion of imperfect duties could perhaps accommodate this idea. Since no specific actions are prescribed, we can see it as a duty and at the same time as something we want to do (of course, there is a complication here since, for Kant, there is no real opposition between our duties and what we really want to do; I discuss this point later in the document).

Therefore, Kant's notion of imperfect duties seems to capture the way we usually understand volunteering. The specific actions we perform—for instance, helping the poor or fighting climate change—are not mandatory, but they still have a moral dimension in the sense of being instances of a generic end—helping others—which is a moral duty. However, this first impression is misleading. Indeed, we cannot derive specific actions directly from our duties as ends, for this relation is intermediated by circumstantial factors. Nevertheless, these actions are still done from duty in the sense of accomplishing an end, which is a duty for us to adopt. As Katja Maria Vogt puts it:

Kant cannot make sense of the key intuition of the supererogationist: that there are actions that are not required but are good or virtuous. No action can be called good if it is not done from duty, and one can only act from duty when one acts in compliance with a duty. With respect to the duties to others, this means that whatever action of beneficence an agent will choose to perform, her action will be an act of duty. No matter how enormous her effort will be and no matter how purely she will be motivated, her action will not go beyond duty [5].

In *The Metaphysics of Morals*, Kant states that to fulfill imperfect duties is *merit* (*meritum*), but to transgress them is not *guilt* (*demeritum*) but rather lack of moral worth unless the agent makes it his principle not to submit to these duties [4]. This means while it would not be blameworthy for us failing to perform some action,

it would be blameworthy not to adopt the end of contributing to the happiness of others, for this would be a vice. Therefore, consistently failing to perform actions in a way that expresses a lack of commitment to the maxim of helping others would be blameworthy. Besides, some circumstances can turn an act of beneficence so demanding-for instance, helping a drowning child-that not performing it would express a lack of commitment to the maxim, and, therefore, the act would be in itself blameworthy. Therefore, there is a sense in which even actions fulfilling imperfect duties are mandatory. This means those acts would still count as fulfilling *basic* obligations, something that could be required as a minimally decent behavior.

A further problem with this account is establishing what “circumstances” are. For instance, if we live in a highly unequal world, would this be a circumstantial factor that gives us reasons to fight poverty? Kant never addressed this point explicitly, but it is possible to infer that he would have tackled it, as many philosophers do, by using the notion of special relationships. As Stuart Mill puts it in *Utilitarianism*, if you can produce happiness on a large scale, as a public benefactor, it would be a moral duty to do so; but for people who are not in this kind of position, only “private utility” is owned, concerning the happiness of those few people who are close enough to benefit from our influence [6]. This means that if I work in the United Nations World Food Program, for instance, then of course I have a duty to fight poverty and famine in the world. My position establishes a specific connection with people who needs this kind of assistance-like the obligations doctors, lawyers, and other professionals have toward their clients. However, most people do not have connections that entail a responsibility to address large world problems.

This is likely also the way Kant would derive specific actions from imperfect duties. What counts as a “circumstantial factor” may be simply a matter of time and space proximity-for instance, if we see a child drowning nearby, we clearly have a duty to help the child, which we do not have toward distant people starving in another continent. However, spatial context is not enough to cover the complexity of circumstances. While considering how to fulfill the end of helping others, it is licit to take into account the special connections we have, for instance, with our friends, children, clients, and so on [7].

I think it has become clear now how both approaches, utilitarian and Kantian, differ from the way volunteering is usually understood. On the one hand, we do not think we have a consequentialist duty to make the world better, stemming from an impersonal point of view and independently of our personal life projects, which can be required as a minimally decent behavior. On the other hand, we do see volunteering as something we do for “the world” in a large sense, benefiting people we do not have obligations stemming from special relationships. The whole point of volunteering seems to be precisely that we do not need to have a job in the UN to fight climate change or the world’s hunger.

In both cases, the problem is related to the point made earlier that we see volunteering as something morally worthy, but we do it because we want to, not because we must. In the utilitarian approach, making the world better does not look like volunteering because it is considered a basic moral obligation. In the Kantian approach, moral obligations do look more the way we usually understand them-we must perform a minimally decent behavior but not heroic ones-but precisely because of this, these obligations do not cover actions often associated with volunteering, which aim to make the world better and help people we do not have any special relationships with. Besides, as argued below, the sense of duty of Kantian ethics-which applies

even to actions fulfilling imperfect duties, as we just saw—does not fit the way freedom (doing something “because I want to”) is understood in the context of volunteering.

In the next section, I attempt to show how a virtue ethics approach can deal better with such issues.

4. Volunteering and virtue ethics

Virtue ethics is a relatively recent trend in moral philosophy. It started officially in 1958 with the seminal paper of Elisabeth Anscombe, “Modern Moral Philosophy.” Anscombe criticized the modern tendency to conceive morality in juridical terms, which, for her, was a legacy of Christianity. If we do not believe anymore in a divine legislator, it makes no sense to hold a law conception of ethics, centered in terms such as ought, must, duty, and obligation. She urged us to drop this legalistic terminology and adopt, instead, an aretaic ethics approach inspired by Aristotle, based on the virtues [8].

During the 60s and the 70s, virtue ethics prospered with authors such as Peter Geach, G.H. von Wright, and Philippa Foot. In the 80s, it was popularized by Alasdair MacIntyre and Bernard Williams, but it became an officially recognized approach only in the 90s, able to rival mainstream theories, such as Kantian and utilitarian ones, as seen in the works of Michael Slote, Rosalind Hursthouse, and Christine Swanton.

The main point of virtue ethics seems to be to give the concept of virtue a central role in ethics [9], but this is quite vague. Many versions of virtue ethics—for instance, the eudemonistic ones—do not see virtue as a value *per se* but as something important because of its contribution to something else, such as the good life, social welfare, or human flourishing. The point, however, seems to be that these approaches give virtue a crucial role, even if it is not a fundamental one. In most eudemonistic conceptions, like Aristotle’s, virtue is constitutive of the good life, and we cannot establish what the right action is without referring to the virtuous person [10]. This is quite different from what we see in modern moral theories, such as Kantian and utilitarian ones, in which morality has become an autonomous sphere independent from the good life, and the rightness of actions can be established without any reference to aretaic concepts.

This divergence helps explain many of the contemporary virtue ethics authors’ criticism of modern moral theories, such as motivational schizophrenia [11], the devaluation of the agent [12], or the exaggerated emphasis on justice, to the detriment of other virtues [13]. Of course, virtue ethics is also the target of many criticisms. For instance, it is criticized for its inability to offer practical guidance [14]. To say that we should think about “what the virtuous person would do in these circumstances” sounds vague and unhelpful. The standard answer from virtue ethicists is to point out the complexity of moral issues, which cannot be easily integrated into formal and legalistic conceptions of rationality. Any attempt to provide an algorithm that can establish the right thing to do in any situation will simplify moral issues, and in this sense, being vague about decision procedures may be an asset, not a hindrance, for a moral theory [15].

As a result, virtue ethics tend to be particularistic—the right thing to do depends highly on circumstantial factors. As we have seen, it may be difficult for a moral theory to explain what circumstances are, but I attempt to show that VE is better equipped than Kantian and utilitarian approaches to deal with this issue.

One way to understand the place of rules in virtue ethics is through the analogy with the crafts (*technai*), common in the ancient world. As Julia Annas puts it, for the ancients, morality has an intellectual structure similar to the crafts (i.e., knowledge acquired from habituation, through the grasp of general principles in conjunction with what we learn from experience) [16]. Every craft has rules, but these are more relevant to beginners than to experts [17]. A mature virtuous person acknowledges the relevance of codes but goes beyond them when making particular judgments, which are like an intelligent sensitivity or perception. Therefore, in a virtue ethics approach, there is room for prescriptions that we must follow, but they occupy a secondary place. Rules provide some general guidance, not a decision procedure. A moral agent is always sensitive to the complexities of each case, which can make exceptions for duties that apply generally. This point is relevant to our present discussion, for it shows how a virtue ethics approach can accommodate the concept of duty, acknowledging that there are things we “must” do. However, those obligations make sense inside a higher structure where the good life and the virtues are the main issues.

After this short discussion on virtue ethics, we can deliberate on how it relates to our previous discussion about volunteering. In this paper, I focus on eudemonistic versions of VE, especially those inspired by Aristotle, which are the main trend of virtue ethics [18]. I argue that eudemonistic approaches are best suited to explain the idea of a morally worthy action that we do not because we must but because we want to.

One of the criticisms of modern moral theories by virtue ethicists is the way they devalue the agent. This criticism can take many forms, but the one which interests us comes from Bernard Williams, who argues that utilitarianism and Kantian approaches alienate people from their personal projects. As Railton puts it, alienation can be characterized as a kind of estrangement, distancing, or separateness (not necessarily consciously noticed), resulting in some sort of loss [19]. Modern moral approaches seem to lean excessively on an abstract and impersonal point of view, too disconnected from our actual ethical commitments. Bernard Williams translates this point into the notion of a “project” that is *personal* in an important sense, as something I am committed to and that gives my life a specific shape [20]. Utilitarian calculations, to give Williams’ preferred example, are supposed to generate moral obligations, which bind us independently of our projects, and this has an alienating effect:

It is absurd to demand of such a man, when the sums come in from the utility network, which the projects of others have in part determined, that he should just step aside from his own project and decision and acknowledge the decision that utilitarian calculation requires. It is to alienate him in a real sense from his actions and the source of his actions in his own convictions. (...) this is to neglect the extent to which his actions and his decisions have to be seen as the actions and decisions, which flow from the projects and attitudes with which he is most closely identified. It is thus, in the most literal sense, an attack on his integrity [21].

Although Williams focuses on utilitarianism when discussing these issues, he also applies it to Kantian approaches: “the Kantian emphasis on moral impartiality exaggerates it in quite another, by providing ultimately too slim a sense in which any projects are mine at all.” [22].

This is the best way to make sense of volunteering as a morally worthy action that we do “because we want to:” carrying out civic services, fighting climate change,

teaching English to immigrants, and so forth are activities we incorporate into our lives as a personal project, something that adds meaning to our existence because it is connected to values we are personally committed to. As Bernard Williams puts it, “a man may have, for a lot of his life or even just for some part of it, a *ground* project or set of projects, which are closely related to his existence and which to a significant degree give a meaning to his life.” [22].

As noted previously, virtue ethics can accommodate the notion of duty, but this is done differently from utilitarian and Kantian approaches, where our moral obligations stem from an impersonal point of view, which is independent of our personal projects. Someone could, in principle, have as a project to become a perfect utilitarian or Kantian moral agent-if this gave some special meaning to his/her own life, for instance. Perhaps, it rings a little odd as a life project, but it would be possible. However, this would be a personal sense of “wanting” quite different from the sense of duty those ethical theories propose. As Bernard Williams puts it, even if someone’s project were strongly altruistic or moral that would not make them immune to conflict with impartial morality [23].

Now is a good moment to talk about the Kantian conception of freedom. Kantians certainly disagree with the understanding I am giving to “wanting” in volunteering. According to the German philosopher, only when one follows the moral law (i.e., practical pure reason), you are truly free [24]. Therefore, there is no real opposition between fulfilling your duty and doing something because you want to-granted it is a moral duty and you do it for the right reasons, which means not from empirical dispositions (*Neigung*) but from the incentive of respecting the moral law [25]. We did not really choose to have the inclinations we have, so Kant believed, when we act out of them, we are following a law that nature set for us and not a law we set for ourselves as rational agents-we are not autonomous, but heteronomous, and therefore, we are not doing “what we really want” in a strong sense.

What Bernard Williams calls a project is something connected with our empirical self [26]. Personal commitments are based on a set of beliefs and dispositions developed through our life history-our biography-an immersed way of seeing and evaluating things that reflect not an impersonal point of view but our own corner of the world. This is the way our self-understanding operates in our daily lives, and that is why trying to identify ourselves with the Kantian rational agent and his/her transcendent freedom has an alienating effect.

Kant, however, did not think we are truly free only when we fulfill some moral duty. He acknowledged that the pursuit of happiness-when we act from inclinations and reason works instrumentally-is an important part of our lives [27]. These actions are also freely chosen, granted they are considered permissible from the moral point of view [28]. The idea that our personal projects are legitimate only as a concession from an impersonal standpoint is also criticized by Bernard Williams-he calls it the “one thought too many” problem [29]. However, what interests us the most is how this picture does not fit the way volunteering is usually understood. Not only do we perform these actions because we want to-in the sense of belonging to our personal life projects in a non-alienating way-but we also see it as something with moral worth. So, volunteering does not adjust well to the way modern moral theories distinguish between morality and happiness. It seems to relate to both spheres at the same time, like a moral deed we do because this makes us happy. This is one of the main reasons that eudemonistic approaches are more appropriate to account for volunteering.

Bernard Williams does not explicitly defend a eudemonistic project, so we are going a step further. However, his discussion about personal commitments and

alienation points in that direction, as it becomes clear, for instance, when he warns us against the reductionist view of projects as a mere pursuit of happiness [30]. This problem arises precisely because of the way happiness is understood, in modernity, as something inherently subjective and independent from moral considerations. Morality, in modern thought, just sets the boundaries of how we can legitimately try to be happy [31]. Things are different in eudemonistic conceptions, where the good life is an ethical ideal. Ancient philosophers believed that reflection about “how should I live” was the entry point to the moral point of view [32]. If we think seriously about what happiness is, we should give a higher weight to the role of virtue in our lives. This paper does not discuss the connection between eudaimonia and virtue in ancient ethics in detail, but here are some general considerations: virtue is related to practical reason, so, the point is that we should live more rationally. Now, living rationally means two things: first, we should flourish as human beings, which means exercising and developing our rational capacities in an integrated way with other features of the human condition, such as emotions. Second, the ancients were very aware that our interaction with the world is a central aspect of our existence, so living rationally means acting and reacting to what happens to us—what they called *týkhe*—in a rational way [33].

This last point is particularly interesting to volunteering, because these activities are usually understood as striving to “make the world better.” It is like we received a call from a very generic level, not from a distinct sphere of human activities. Of course, our contributions can be in some specific domain, such as climate change or medical care, but it is like those are instantiations of a higher problem.

The idea of a “call of the world” fits well with the particularism of the ancient theories mentioned earlier. Duty ethics, such as utilitarianism and Kant-inspired approaches, see circumstances as opportunities for the fulfillment of previously established obligations (of course, the categorical imperative and the universal command of maximizing well-being are in each case intermediated by more particular obligations, so circumstances also help to identify which specific duties apply). The role of circumstances is stronger in particularistic approaches, for the right thing to do is somehow established throughout our interaction with the world. To live a good life, we need to have a “rational relationship” with reality, and this includes learning to make the right reading of a situation, listening, and acknowledging what is required of us. Of course, the same can be said of duty ethics—we must correctly appreciate the situation and acknowledge what is required. However, in eudemonic conceptions, this is done differently, with important implications for volunteering.

Ancient ethics is usually committed to substantive moral realism, which means there are objective values, like knowledge or friendship, we should incorporate into our practices to have good lives. The term “realism” does not mean that values are out there in a literal sense, but the assumption that they are somehow “objective” can be seen as an external imposition—why should I accept those values as true and those ways of living as somehow better than others? This is one of the reasons why the eudemonistic approach lost its force in modern times and was replaced by moral theories centered on duty [34]. However, impersonal obligations also may look like external impositions, in the sense of being disconnected from the substantive values we are committed to, which shape our lives. This is partially why we find in contemporary thought those reactions inspired by ancient conceptions, like virtue ethics.

Of course, we cannot—nor would it be desirable—simply go back to the ancient view. However, there are still elements of eudemonistic approaches we can adapt and incorporate into our modern world. One of them is the attractive dimension of substantive

values, in contrast with the coercive tone of formal duties [35]. Virtue ethics can also be exigent in the sense of asking us to reflect on our values to become “better persons.” However, turning our values more objective through reflection is a bottom-up process that is non-alienating. We do not really abandon our personal commitments by making them better. That is why eudemonistic conceptions can conciliate morality and happiness in a way that does not make sense in modern moral theories. The distinction between impersonal and personal, or between objectivity and subjectivity, which is at the core of these theories, is challenged. We cannot think anymore of morality as something impersonal and objective and of happiness as something purely personal and subjective. In a moral substantive realism, as the ancient’s, objective values work as a horizon that we approach gradually by making our commitments more rational through reflection. As we saw, this process includes working out the way we relate to the world and listening better to it. Therefore, even if the good life or eudaimonia is more objective than modern happiness is usually understood, it keeps a subjective component within it [36]. In eudemonistic virtue ethics, morality is always personal in the sense of contributing to the meaning of our existence. The good life would not be good if it was not my life, lived from the inside. Therefore, objectivity orientates the development of subjectivity in a way it does not cease being subjective. Aristotle perfectly illustrates this point when he says that the good is always apparent, that is, it is always good in the sense of looking this way at someone. It does not preclude some goods from being more objective than others-Aristotle was no relativist-but even those are still apparent, in the sense of being “someone’s good.” [37].

This point helps to explain why eudemonistic conceptions are not a form of moral egoism, which is a common criticism toward them. The idea that the ethical life is good for the agent sounds odd to our modern ears, as we are used to seeing morality and individual happiness as different things. Julia Annas tackles this problem by saying that ancient ethics is self-centered only in a formal sense, meaning the content of the agent’s interests may be directed to others [38]. To say the agent’s interests are his/her own does not mean he/she is only interested in his/her own good. This account fits well with Williams’ concept of a personal project: *my* commitments give shape to *my* life, but these commitments can, and often do, involve the good of other people [23]. Helping war refugees can give a special meaning to my own existence, but this only works if my concern for them is sincere. As I said, eudemonistic conceptions urge us to understand the good life as an ethical one, but this occurs through a bottom-up process, which elevates, so to speak, my personal interests to a moral level. This is the opposite of moral egoism, which is technically a possible position, often associated, for instance, with Hobbes. According to this view, each person should (i.e., from a moral point of view) follow his/her own interests in all situations [39]. Of course, this looks strange as a moral theory, but it works technically because the same principle is valid for everyone. In the case of moral egoism, morality is lowered to the individual preferences people happen to have. However, the opposite is true in eudemonistic theories, where our interests are elevated to the moral level.

Now turning ethics into a personal project is precisely what we need to make sense of volunteering as a morally worthy action that we do because we want to. As we saw before, none of the duty ethics’ accounts for volunteering-the fulfillment of basic moral obligations, the supererogatory, and the morally permissible search for happiness-really works as an explanation. The notion of volunteering simply does not fit the way those issues are structured in modernity, the split between happiness and morality, the correlated distinction between the public and private realms, and the way subjectivity and objectivity are worked out, the latter understood formally.

Volunteering is something like a public good we do for private reasons. That is why it fits better with the structure of eudemonistic virtue ethics, where there is a tangled continuity between morality and happiness, the public and the private, and where objectivity is understood as a set of substantive values, which functions as a reference to the development of subjectivity. We become better persons through a bottom-up process that reaches the ethical level while keeping itself personal in an important sense. As I argued, this process is based on the attractive dimension of substantive values, which functions as an ideal, different from the coercive and alienating tone of impersonal duties. Instead of the cherished dualisms of modern thought, we have a scalar structure based on degrees. The difference between a simple activity and a heroic act of volunteering—say, raking leaves or fighting in the Ukrainian war—is not the distinction between what is morally required and what is beyond duty but between different ranges in the ethical realm. Therefore, even simple actions are the right move in a meaningful direction.

5. Conclusion

I have argued that for the ancients, the good life depends on rationally interacting with the world, and this—considering particularism as a general trend of these conceptions—means learning how to listen to it. If we combine this perspective with the attractive dimension of substantive values, ethical behavior can be seen as responding to a “call of the world” (again, this does not mean values are out there in a literal sense but that they are worked out through the way we report to reality). This understanding also agrees with how volunteering is usually understood and allows a better appreciation of what circumstances are and their role in moral behavior. Instead of a clear-cut demarcation between what is and what is not relevant for the agent, flowing from a specific reading of the situation he/she is immersed in—based, for instance, on special relationships, like familiar or professional ties—the eudemonistic approach allows us to see circumstances in a scalar and holistic way, ranging from proximity to the distant, but always as a part of a greater situation, which is, ultimately, the whole world. So, it becomes easier to see how the problems of strangers and events not directly related to us are somehow part of the circumstances we are immersed in. This is precisely what we need to explain what volunteering is.

Therefore, virtue ethics helps us not only to understand volunteering but also to appreciate its importance. Several authors believe we are on average in a much better reality than our ancestors [40]. Maybe this is true, but there is certainly a lot to be done. We live in a very unequal world. According to recent UN reports, 828 million people are suffering from food insecurity around the globe. 9.2% of the world’s population lives on less than \$1.90 a day. Climate change, discrimination against minorities, animal cruelty, wars, and deadly diseases are a bitter reality. Apart from these global structural problems, there are a lot of simple things we can do to help people in important ways.


The world is calling for us. Let us have a good life!

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References

- [1] Thomson JJ. A defense of abortion. *Philosophy and Public Affairs*. 1971;1(1):62-63
- [2] Singer P. Famine, affluence, and morality. *Philosophy & Public Affairs*. 1972;1(3):231
- [3] Williams B. For a criticism of utilitarian strategies to mitigate this problem, such as indirect utilitarianism and rule-utilitarianism. In: *Morality—An Introduction to Ethics*. Cambridge: Cambridge University Press; 1993. pp. 91-98
- [4] Kant. *Metaphysics of Morals*. Vol. 6. MS AA. p. 390
- [5] Vogt KM. Duties to others: demands and limits. In: Betzler M, editor. *Kant's Ethics of Virtue*. New York: Walter de Gruyter; 2008. pp. 228-229 In a well-known paper, Thomas E. Hill argues that some acts of beneficence fulfilling Kant's imperfect duties could be considered supererogatory insofar as the act itself is not required, due to the latitude we have (Hill, T. E. (1971) Kant on Imperfect Duty and Supererogation. *Kant-Studien*, 62, p. 55-76). Vogt disagrees, with reason, arguing that since those acts are performed as an act of adherence to the agent's maxim, which is a duty to adopt, his act is performed as an act of duty (Vogt, 2008, p. 229 n24). For a similar criticism of Hill's position, see Baron, M. *The Supererogatory and Kant's Imperfect Duties* (In Timmons, M. & Johson, R.(eds) (2015). *Reason, Value and Respect—Kantian themes from the philosophy of Thomas E. Hill*. Cambridge: Oxford University Press, p. 215-231). Baron argues that Kant's notion of the "meritorious" (*verdienstlich*) does not give any support to the idea of the supererogatory, since an act being meritorious only indicates that it is not something another person can demand of us, as his or her right (Baron, 2015, p. 221)
- [6] Mill JS. *Utilitarianism*. New York: The Floating Press; 2009. p. 34. This is a point on which Mill and Singer seem to diverge
- [7] Kant is not clear on this point, although he specifically mentions the duties of parents toward their children (*Metaphysics of Morals*, MS AA 6:281). However, as stated previously, it is reasonable to infer from his theory that special relationships have an important role among the circumstantial factors, which help to establish particular obligations. As Allan Wood puts it, "Kant's *Metaphysics of Morals* does not attempt to cover all the ethical duties that we have. This is because Kant confines the 'metaphysics' of morals only to those duties that are generated by applying the principle of morality to human nature in general. But many of our duties, as Kant recognizes, arise from the special circumstances of others, or our relations to them, and especially from the contingent social institutions defining these relations" (Wood, A. *Duties to Oneself, Duties of Respect to Others*, Hill TJ. *The Blackwell Guide to Kant's Ethics*. London: Wiley-Blackwell; 2009. p. 230
- [8] Anscombe GEM. Modern moral philosophy. *Philosophy*. 1958;33(124):7-11
- [9] Statman D. *Virtue Ethics—A Critical Reader*. Washington DC: Georgetown University Press. pp. 7-8
- [10] Aristotle. *Nicomachean Ethics*. pp. 1097a30-1097a35; 1113a29-33
- [11] Stocker M. The schizophrenia of modern ethical theories. *The Journal of Philosophy*. 1976;73(14):453-466

- [12] Slote M. *From Morality to Virtue*. Oxford: Oxford University Press; 1992. pp. 3-19
- [13] Hursthouse R. *On Virtue Ethics*. Oxford: Oxford University Press; 1999. p. 6
- [14] Statman D. *Virtue Ethics—A Critical Reader*. Washington DC: Georgetown University Press. pp. 20-21
- [15] Statman D. *Virtue Ethics—A Critical Reader*. Washington DC: Georgetown University Press. p. 35
- [16] Annas J. *The Morality of Happiness*. Oxford: Oxford University Press; 1993. pp. 70-71
- [17] Annas J. *Intelligent Virtue*. Oxford: Oxford University Press; 2011. p. 33
- [18] Examples of non-eudemonistic virtue ethics approaches are those of Michael Slote and Christine Swanton
- [19] Railton P. Alienation, consequentialism, and the demands of morality. *Philosophy and Public Affairs*. 1984;13(2):134
- [20] Williams B, Smart JJC. *Utilitarianism For and Against*. Cambridge: Cambridge University Press; 1973. pp. 110-118
- [21] Williams B, Smart JJC. *Utilitarianism For and Against*. Cambridge: Cambridge University Press; 1973. pp. 116-117
- [22] Williams B. *Moral Luck—Philosophical Papers 1973-1980*. Cambridge: Harvard University Press; 1981. p. 12
- [23] Williams B. *Moral Luck—Philosophical Papers 1973-1980*. Cambridge: Harvard University Press; 1981. p. 13
- [24] Kant. *Grounding For the Metaphysics of Morals*. Vol. 04. GMS AA. pp. 440-447
- [25] Kant. *Grounding For the Metaphysics of Morals*. GMS AA 04:400
- [26] Williams B. *Moral Luck—Philosophical Papers 1973-1980*. Cambridge: Harvard University Press; 1981. p. 5
- [27] Kant. *Grounding For the Metaphysics of Morals*. Vol. 04. GMS AA. pp. 415-416
- [28] Kant. *Metaphysics of Morals*. Vol. 6. MS AA. pp. 221-222
- [29] Williams B. *Moral Luck—Philosophical Papers 1973-1980*. Cambridge: Harvard University Press; 1981. p. 18
- [30] Williams B, Smart JJC. *Utilitarianism For and Against*. Cambridge: Cambridge University Press p; 1973. p. 113
- [31] Larmore C. *The Morals of Modernity*. Cambridge: Cambridge University Press; 1996. p. 20
- [32] Annas J. *The Morality of Happiness*. Oxford: Oxford University Press; 1993. p. 27
- [33] Nussbaum M. *The Fragility of Goodness—Luck and Ethics in Greek Tragedy and Philosophy*. Cambridge: Cambridge University Press; 1986
- [34] Larmore C. *The Morals of Modernity*. Cambridge: Cambridge University Press; 1996. p. 38
- [35] Sidgwick comments how ancient ethics, centered on the notion of good, were attractive, in contrast with the imperative dimension of modern ethics, centered on the right (Sidgwick, H. (1962). *The Methods of Ethics*. London: Macmilan, p. 105). As Allan Woods

says, ancient conceptions are ethics of ideals, while modern ones are ethics of principles, Wood A. *Kantian Ethics*. Cambridge: Cambridge University Press; 2008. pp. 154-157

[36] Kraut R. Two conceptions of happiness. *The Philosophical Review*. 1979;88(2):171-177

[37] Aristotle. *Nicomachean Ethics*, 1113a15-1113b1. This is actually an important difference between Aristotle and Plato, whose Ideas were disconnected from the sensible world in a more strict way. This could give further support to a view of the good life as something imposed from outside, Aubenque P. *La Prudence Chez Aristotle*. Paris: Presses Universitaires de France; 1963. pp. 48-51

[38] Annas J. *The Morality of Happiness*. Oxford: Oxford University Press; 1993. p. 223

[39] Shaver R. *Rational Egoism—A Selective and Critical History*. Cambridge: Cambridge University Press; 1999

[40] Pinker S. *The Better Angels of Our Nature—How Violence has Declined*. New York: Penguin Group; 2011

Chapter 2

Youth Volunteering: New Norms for Policy and Practice

Aileen Shaw and Pat Dolan

Abstract

Young people engaging in volunteering are encountering some of the greatest, unanticipated challenges facing society in decades including the impact of Covid-19, the rise in extreme poverty and an increase in the number of migrants and displaced persons globally. Youth volunteering is understood as embracing a wide range of civic and societal objectives. It acts to encourage young people to become active citizens and agents of positive change for communities. It has a role in providing developmental opportunities to young people including pathways to education, training and work. While some characterisations of volunteering highlight benefits it accords at the individual level, increasingly, policy responses are focusing on the ‘other-oriented’ elements that contribute to an inclusive, committed and tolerant society. This paper examines the potential role of volunteering in fostering a culture of citizenship, democracy and social cohesion among youth, in particular, an emerging focus on empathy and global consciousness as key elements of policy and practice.

Keywords: young people, volunteering, policy, citizenship, empathy, tolerance

1. Introduction

The term ‘volunteering’ is broad, incorporating an extensive range of formal and informal activities across diverse contexts and cultures. The 2022 *State of the World's Volunteering Report* (SWVR) uses the definition, adopted in the 2002 UN General Assembly resolution, of volunteering as ‘a wide range of activities, including traditional forms of mutual aid and self-help, formal service delivery and other forms of civic participation, undertaken of free will, for the general public good and where monetary reward is not the principal motivating factor’ ([1], p. 16). The SWVR also differentiates between ‘formal volunteering’, namely unpaid voluntary work through an organisation, and ‘informal volunteering’, the provision of unpaid work or support to non-family members outside of the household. Globally, it estimated the monthly volunteer rate, defined as the share of working age people 15 years or older who volunteer in a month, as amounting to 15% in informal activities and 6.5% engaging in formal volunteering ([1], p. 30). The report acknowledged that research on volunteering is challenging as much of the available information is on formal activities taking place through organisations and in high-income countries.

An estimated 1 billion people globally are deemed to be active volunteers with one in three young people, a figure of 600 million youth worldwide, reporting to be volunteering [2]. In Europe, 34% of youth in 2019 reported they had engaged in organised volunteering activities within the previous 12 months, an increase from 24% in 2011 [3]. In the United States, 2019 figures estimated that 30% of Americans volunteered for an organisation or association in the previous year; the 20–24-year-old group had the lowest rates, with teenagers aged 16–19 reported higher rates close to the national average [4]. The Australian Institute of Health and Welfare [5] found that in 2019, 29% of people aged 15–24 had volunteered in the previous 12 months. There is some evidence that the Covid-19 pandemic has impacted volunteering levels. In the United Kingdom, for example, it resulted in a downturn among the elderly from 25 to 13%, due to practical issues such as need to self-isolate. At the same time, among the 16–24 age group, rates spiked from 30 to 40% between 2018 and 2020. This was followed, however, by a return to pre-pandemic levels [6]. In response to Covid-19, the overall proportion of Australians volunteering declined from one in three people in 2019 to one in four during 2020 [5]. The SWVR Report highlights the difficulties in measuring volunteering during the pandemic due to the large amount moving to online activity.

At the same time, the pandemic has focused attention on new trends in volunteering, that growing in popularity among young people, escalated during Covid-19. These include ‘episodic’ volunteering, namely flexible, short-time or once off activities that commonly manifest in times of crisis often through providing care for vulnerable people and in the form of community events [7]. Young people are seen to prefer occasional, short-term and spontaneous types of volunteering activities to regularly organised ones [8]. Also during Covid-19, cyber-volunteering or digital volunteering ‘has revealed its potential to complement ‘standard’ volunteering associated with physical mobility or even to become an alternative form of volunteering altogether, especially for young people who are not in a position to travel physically’ ([9], p.1).

In examining youth volunteering, there is a need to be mindful of the definition of ‘youth’. The UNDP acknowledges the United Nations General Assembly definition of youth as between the ages of 15–24 and, whilst acknowledging considerable disparity globally, adopts a definition in programming to ‘focus principally on young women and men aged 15–24, but also to extend that youth group to include young men and women ranging from ages 25 to 30’ ([10], p. 9). Among studies on youth volunteering, differentiations are typically made between adolescents or ‘school’ age youth (aged 12–17) and young adults (aged 18–30).

A further clarification relates to the understanding of the terms ‘youth volunteering’ and ‘youth engagement’. Youth volunteering is primarily presented as a sub-set of youth engagement; a facet of civic education. More broadly, while there is agreement generally that what comes under the banner of civic engagement, active citizenry and civic action includes voluntary activities, the terms can differ across country contexts [11]. Such differences can manifest as ‘apolitical’ volunteering and ‘political’ civic engagement. Evers and von Essen [12] note that ‘Volunteering is often crudely described as the private, morally motivated and individual form of voluntaristic action that seeks to help other individuals but not change society. By contrast, civic action is perceived as the public, political and collective form that deliberately aims for societal change’. They argue that conceptual divides are not helpful preferring the adoption of a contextual approach in which both are treated as forms of popular engagement for ‘public actions voluntarily performed by individuals for the benefit of

another individual, a group or some cause' (p. 4). Similarly, Stanley [13] uses 'youth action' and 'voluntary activity' as umbrella terms to describe 'all kinds of voluntary engagement characterised by being open to all, unpaid, undertaken of a person's own free will, educational (in the sense of providing non-formal learning) and of social value'.

2. Policy frameworks

Across international policy frameworks and instruments, youth volunteering is associated with a range of civic and societal objectives. Volunteering offers a rich array of informal and non-formal learning opportunities that serve to enhance young people's 'personal, socio-educational and professional development, active citizenship, civic participation and employability' ([8], p. 2). Framed largely within the discourse of youth engagement and participation, it is seen as important for the self-development of young people; for their engagement as active citizens and for enhancing social cohesion. In the context of young people's education and career pathways, volunteering also offers opportunities to develop practical, marketable skills and improve employment prospects, including entrepreneurship [10, 14].

A fundamental part of the rationale for promoting youth engagement and a core principle across key policy frameworks and youth strategies is fostering the participation of young people in democratic life [14, 15], a position based on the framework for the rights of young people as articulated in the UNCRC Article 12. UNESCO's *Operational Strategy on Youth 2014–2021* seeks to promote youth leadership across all levels of society in order to enable young people to 'to express themselves, understand their rights and responsibilities and play an active role in democratic processes' ([15], p. 14). Such frameworks operate from the perspective that youth be seen as active citizens or 'architects of their own lives' [14] with an emphasis on empowering young people to play a role in their own development and in their communities. As stated in the UNDP *Youth Strategy 2014–2017, Empowered Youth, Sustainable Future*, 'Engaging young people in policy dialogues and decision-making processes on the social, economic, environmental and cultural affairs that matter most to them therefore has to be an important component of the engagement process with youth.' ([10], p.5).

For many young people, volunteerism acts as their first experience of civic engagement [2, 10]. Under the UNDP Youth Strategy, volunteerism is viewed as a channel for young people's participation in civic and public life. Policymakers are recognising that compared with older citizens, participation by young people in formal political processes or traditional forms of participation is declining; instead, young people are embracing informal modes of engagement [10, 14]. Such developments are viewed positively 'This has translated into new forms of youth mobilization, through social media channels or innovative informal groupings, and a heightened engagement in volunteering.' ([10], p. 19).

A number of policy instruments incorporate the growing awareness of young people's natural disposition towards civic engagement and activism, expressed, in large part, through their commitment to addressing global challenges, including the sustainable development goals [10, 14]. As a global force and evidenced by their engagement with climate change, peace and gender equality for instance, youth are acknowledged to be moving to the centre stage of development debates; reflecting their determination to participate in the decisions that shape their societies and their futures. As stated in the UNDP Youth Strategy, opportunities for youth volunteering

should be optimised in order to ‘to engage young people in tackling development challenges, gaining both skills and strengthening trust and solidarity in society, and creating opportunities for participation’. ([10], p. 25). Moreover, ‘youth volunteers are often involved in bringing together different components of social action, combining direct action and service provision with online and in-person advocacy and representation to solve challenges’. ([16], p.2).

As a forum for social action and generating awareness, voluntary participation is seen to harness young people’s capacity to effect change at the personal and structural level: ‘Through volunteering, young people gain a strong sense of civic engagement to bring about transformational change in their communities’. ([10], p. 44). The role of young people as agents of change, ‘active citizens, agents of solidarity and positive change for communities’ is invoked as part of the European Youth Strategy [14]. This element of engaging in social transformation is deemed especially important in countries with younger populations and those experiencing challenges such as migration, unemployment and political instability [2].

Equally important is mobilising and empowering youth as agents of change during times of disaster and conflict. In the area of social action, the role played by young people during the Covid-19 pandemic is widely acknowledged and their efforts credited with mitigating Covid-19’s impact through increased volunteering and intergenerational support [8]. During Covid-19, governments created dedicated programmes to harness youth volunteering efforts often in the form of practical tasks such as shopping for neighbours or assisting the elderly. Many schemes included digital initiatives to engage young people in recovery efforts and foster community resilience. A report from the OECD [17] highlighted the need to sustain this solidarity through action ‘It is critical for governments to capture, retain and build on current youth mobilisation to strengthen society’s resilience and readiness for future shocks. National youth volunteering programmes and strategies that allocate clear responsibilities, provide capacity building opportunities, as well as adequate financial resources can help in keeping youth mobilised for their communities’.

Volunteering is widely associated with broad societal objectives for an inclusive, tolerant and integrated society. In particular, European policy places a strong emphasis on the role of volunteering in fostering social solidarity in youth [18]. This spirit of solidarity and intercultural learning that accompanies volunteerism is widely invoked through increasing opportunities under schemes such as the European Solidarity Corps, encouraging youth exchanges and cross-border mobility of volunteers. Sipos [19] in an examination of the concept of solidarity as applied in European youth policy, identified four cornerstones of solidarity that together embody the principles of human rights, active citizenship, empathy and inclusion.

Informed by the need for young people to acquire skills to function as citizens of the world, tackle global challenges and build intercultural understanding, discourses on youth citizenship are increasingly focusing on global citizenship. UNESCO [20] advocates a model of Global Citizenship Education based on three domains of humanistic learning: cognitive (skills to better understand the world); socio-emotional (values, attitudes and social skills to live peacefully and respectfully) and behavioural (conduct, practical application and engagement). Using the model with Italian voluntary organisations Albanesi et al., [21] found that Italian youth reported higher scores in all the dimensions. The authors concluded ‘our results add evidence to the importance of civic engagement from early stages of life as a booster for the development of citizenship skills and confirm that belonging to organizations and engaging civically can contribute to positive outcomes regarding openness to diversity and Global Citizenship’ (p. 508).

While policy frameworks seek to foster youth engagement in public life, it is widely recognised that opportunities for participation can be unequal. The 2022 State of the World's Volunteerism Report (SWVR) concluded that while volunteering offers diverse pathways to civic participation, access remains unequal. The report identified the need for policymakers to address barriers to volunteering faced by marginalised groups, including participation in decision-making processes and for greater access and inclusion while volunteering. Estimating that one-third of young people are active volunteers, the EU Youth Strategy cautions that 'Decision-makers need to make participation a reality for all young people: to be transparent about actions in their favour, to reach out and communicate in an accessible way through their preferred channels (like social media) and to promote their involvement in decisions' ([14]; p. 2). In Europe, while volunteerism has a role in supporting processes of integration and community building among EU nationals and third-country national youths, Lehner et al. [22] found that issues that prevent youth with migrant backgrounds from volunteering include language, socio-economic and legal/bureaucratic barriers.

The European Commission, in the 2022 European Year of Youth, undertook to step up measures for high-quality and inclusive youth volunteering that included: ensuring access to transnational volunteering activities is a realistic opportunity for all young people, prioritising those with fewer opportunities; support for volunteering activities that make a meaningful contribution to tackling environment-related challenges; as well as exploring new trends and alternative dimensions and formats of volunteering, such as digital and inter-generational volunteering [8]. Alongside recognition in the social domain, accreditation in the labour market is highlighted as the EU Youth Strategy also calls for greater validation of volunteering experiences [14].

3. Why young people volunteer

Key factors influencing youth volunteering include motivations to volunteer, ability to participate and opportunities for volunteering. These are discussed below.

3.1 Motivations

While volunteerism takes many forms, the majority of research is based on organised volunteering activities that constitute 'planned, non-obligatory, and contributory behaviour that takes place over time and within an organisational context' ([23], p. 971). Such definitions embrace a broad array of activities that incorporate elements of personal growth or self-development as well as varying degrees of social and civic awareness. Much has been written about the motivations for volunteering and, relatedly, the factors that influence individuals to participate, including age-related considerations. Clary and Snyder [24], in an often referenced scheme, classified the functions served by volunteering to be based on:

- Values – expression of humanitarianism.
- Understanding – learning more about the world and exercising of skills.
- Enhancement – individual growth and development.
- Career – gaining career and work-related experience.
- Social – strengthening social relationships.
- Protective – reducing negative feelings such as guilt.

Schema such as the above are oriented to a primarily individual approach based on the self-development of the volunteer, whereas others emphasise motivations of a more socio-political nature. Laitinin [25], in her study of volunteering in Finnish youth organisations, views the different opportunities as encompassing a *menu* of volunteering. Options include *benevolent* volunteering (providing care/unpaid work); volunteering *as leisure* (way to spend free time) from project or time-bound activities and serious leisure (e.g. tutoring) to volunteering *as associational or political activism*.

In whatever way volunteering is framed, it is broadly understood as serving a twofold purpose offering individual and societal benefits. Incentives for young people to volunteer are sometimes presented as 'self-oriented' and 'other-oriented' [26]. Similarly, they are characterised as 'egotistic' (e.g. my volunteering will boost my curriculum vitae or will allow me to meet people and make friends) versus 'altruistic' (i.e. my volunteering will make a difference in other people's lives) motivations [27]. In programmes where the focus is on participation in community activities and building civic awareness, differentiating volunteering from other forms of youth engagement can be problematic. Taylor Collins et al. [28] in a UK study of 16–20 year olds, adopts the term 'youth social action' as it incorporates a range of activities, including fundraising, volunteering and campaigning. Central to this understanding of social action is the dual benefit to both the young person participating and the community or cause involved. Young people volunteer for a variety of reasons across individual and societal objectives. Typically, rather than being overly influenced by one feature, young people are found to have multiple motivations that straddle instrumental and altruistic goals [26, 29, 30].

Among the key factors influencing young people to participate in volunteering are their engagement through schools and religion. Schools play a fundamental role in providing young people with exposure to direct volunteering opportunities, instilling an early civic orientation as well as teaching of altruistic values [31] while playing a critical role in sustaining a habit of volunteering into early adulthood [32]. The influence of religion in initiating and sustaining youth volunteering is also notable. Gil-Lacruz et al. [23] found trust in religion to have a positive association with youth volunteering across countries in the European Union; in the United Kingdom, young people engaging habitually in volunteering tended to have a religious affiliation and, importantly, to practice their religion [28].

The roles of parents and close friends are identified as key factors. Studies have found young people are more inclined to participate in volunteering where the family has a civic orientation and when parents lead by example [33, 34]. Even among younger children, a study of volunteering among preadolescents found that those with parents that 'endorsed humanitarian-egalitarian values and those with greater civic participation were more likely to have children who volunteered' [35]. Older-age adolescents in particular are induced to engage in volunteering when close friends and peers volunteer, Van Goethem et al., [34]. Interventions that target parents' or friend's civic behaviour or extend opportunities to adults are often instrumental in stimulating and maintaining a culture of volunteering among adolescents.

Research points to a number of key differentiators in the motivations for volunteering between young and older volunteers. Among younger people, motivations relating to acquiring new skills, career-related experience and making friends appear more important than for older volunteers for whom civic service or societal considerations are dominant [36, 37]. Using the scheme developed by Clary and Snyder [24] above, Okun and Schultz [38] found that career and understanding

motivations decreased with age, whereas social functions increased. Notably, their findings indicated that enhancement, protective and values motivations to be unrelated to age. Research on age and episodic volunteering undertaken by Almong-Bar et al. [39] examined the characteristics in different age groups among 2270 episodic volunteers from six countries. Defining episodic volunteering as engagement in one-time or short-term volunteering, the authors suggest that policymakers would benefit from greater attention to the differences in behaviour patterns and motivations among the various age groups of volunteers. Greater understanding of the motivations behind youth volunteering is important for recruitment and retention strategies as targeting messaging to young people and matching individuals to suitable activities can be effective in preventing high turnover [36]. The need to be mindful that motivations of young people change over time and at critical transition points such as entry into secondary school or college is highlighted [40–42]. Davies cautions that ‘although early experiences can provide an important foundation for volunteering, opportunities for participation must also be viewed alongside the lifecourse and in conjunction with events in individuals’ lives’ (2018, p.269).

3.2 Ability to volunteer

Mirroring the experience of youth civic engagement, volunteering among young people is also associated with socio-economic status and demographic factors. Research suggests that higher levels of income and greater levels of educational attainment are positively associated with rates of volunteering while participation of young people from disadvantaged backgrounds and ethnic and minority groups is lower due to issues of access and opportunity [30, 40, 43, 44]. Such studies point to the importance of contextual factors in encouraging youth volunteering. Gil-Lacruz et al. [23] differentiated between individual and contextual features in influencing youth volunteering behaviour. Individual factors include socio-economic variables such as education and income; contextual influences include government expenditure on volunteering, time constraints and resourcing. Among their findings, ‘individual variables, show that being male significantly and positively affects being a volunteer in leisure and professional organizations, while its significance is negative in social justice organizations’ ([23], p., 986).

A study by Davies [41] on young people’s participation in volunteering in deprived urban areas of Scotland identified barriers to include *objective* constraints, namely the conditions in which participants are located and *subjective* constraints, attitudes to volunteering. The former included lack of resources (youth worker/club support); no information about opportunities to volunteer through schools; and spatial or physical access limitations. Objective barriers included elements of stigma associated with the image of volunteering as a middle-class, do-gooder activity and, among males, association of volunteering with femininity.

Mindful of the need for flexibility, Dean’s [30] assessment of youth volunteering programmes in the United Kingdom comes with a caution that structural factors including volunteering programmes that promote volunteering as a pathway to employment as well as specific volunteering programmes that reward short-term, boundaries commitments take away from the altruistic element of volunteering. Moreover, they inhibit holistic long-term volunteering and make for constant recruitment and retention.

3.3 Opportunities

As discussed in the previous sections, there are notable distinctions in the motivations for and styles of volunteerism preferred by young people; moreover, these variations have implications for the management and operation of youth volunteering initiatives.

Typically, young people have a preference for informal modes of engagement. Nursey-Bray et al. [45] found that increased governance and formalisation, for example, requirements to keep timesheets, to draft plans and other related 'red tape' acts to discourage youth from volunteering. Rather, such formalised and professionalised approaches were more likely to appeal to middle-aged and older volunteers. Almog-Bar et al. [39] found that ways to engage young volunteers also differ. While older volunteers demonstrated a preference for communication that is formalised and comes with defined roles, younger volunteers, especially the 18–24 age group, were likely to learn of opportunities through social media platforms or through friends or neighbours and to prefer a less hierarchical style of management.

Research suggests the need for flexibility in managing youth volunteering programmes. Practical considerations feature in the choices made by young people as much if not more than philosophical or aspirational considerations. Veludo-de-Oliveira et al. [27], for example, found that in comparing levels of committed behaviour, 'Volunteers do not differ in terms of altruism, empathy, and attitudinal and normative beliefs'; however, 'they do differ in terms of two control beliefs: lack of time and the hindrances to volunteering work'. Efforts that could assist young volunteers to maintain engagement, the study suggests, include flexible working hours, scheduling and provision of free transport. Similarly, Taylor Collins et al. [28] found key enablers of participation to be time, confidence, skills and opportunity noting that supporting adolescents to believe they have such capacities and providing opportunities that are accessible may reduce barriers to engagement and develop a habit of volunteering.

As has been suggested earlier, greater awareness of differences in behaviour and motivations across and between age groups can assist managers to design more appropriate mechanisms and to facilitate targeted planning and resourcing. Almog-Bar et al. [39] identified two 'outlier' age groups, those aged 18–24 and 65+ to be most often assigned unskilled labour tasks such as clean-up and to receive less training compared with middle-age groups resulting in a sense of meaninglessness with their assignment. Young people were also more likely to 'receive snacks and goodies as gratitude and least likely to receive thank you letters or direct gratitude from supervisors' ([39], p. 494).

Meaningful engagement is viewed as essential in supporting and retaining youth volunteers. Nordstrom et al. [46] in a study of youth volunteering levels in the United States found that young people are driven by a sense of efficacy. Among the programme practices that strengthen volunteers sense of efficacy is authorising, for example, though allowing young people to make decisions or work independently, 'Authorizing reshaped the student's image of themselves and what they were capable of contributing' ([46], p. 361). Others have emphasised the importance of allowing for reflection, for example, journalising and engaging in online discussions, as factors that enable young people to see themselves as making a tangible contribution [25, 30].

4. Future directions

Across policy and practice, youth volunteering is chiefly understood as taking place under the broad spectrum of civic engagement. As such, it forms part of debates, located within a wide body of youth civic engagement, participation and citizenship literature, on the ways in which young people are supported to take active roles in society. Among the predominant discourses are those based on democratic or active citizenship; skills and asset building approaches as well as models for youth engagement incorporating social justice perspectives [47]. This section focuses on two emerging themes, 1) the importance of developing empathy and prosocial skills in young people and 2) education in global consciousness that seek to develop 'other-oriented' competencies in young people.

4.1 Citizenship and critical awareness

Over the past decade, the discourse on youth civic engagement has placed a heightened emphasis on global citizenship, as part of which the cultivation of 'soft' skills and prosocial behaviours in young people is key. UNESCO [20] advocates for a Global Citizenship Education (GCED) framework that 'aims to instil in learners the values, attitudes and behaviours that support responsible global citizenship: creativity, innovation, and commitment to peace, human rights and sustainable development.' Internationally, the importance of social and emotional learning is being formally recognised in educational settings [48]. Schools play a critical role in nurturing social and emotional skills as part of education policies designed to foster tolerance, diversity and inclusion [49, 50].

Global consciousness is seen as a critical competency in social justice frameworks for working with young people that seek to address socio-economic challenges in society. Typically, such models set out to actively support and empower young people to take action on social issues that are relevant to their lives, by giving them a voice and enabling them to influence policy and practice on a variety of social and civic issues. Ginwright and Cammarota [51], for example, identified three levels of awareness for such models: self-awareness, through exploring racial, ethnic and cultural diversity; social awareness, thinking critically about issues in their own communities; and global awareness through encouraging young people 'to practice critical reflection in order to empathise with the struggles of young people throughout the world' (p.90). Such a global consciousness approach Dill [52] characterises as one in which the objective is to provide students with a global orientation, empathy and cultural sensitivity stemming from humanistic values and assumptions. It also shares attributes of a categorisation of global citizenship in which advocacy, namely 'A focus on the challenges arising from inequalities and oppression using critiques of social norms to advocate action' ([53], p. 306).

4.2 Empathy and prosocial skills in young people

In working with young people, the cultivation of empathy and positive social values are increasingly viewed as important drivers of youth prosocial behaviour and civic action. For young people, empathy is associated with healthy physical and psychological functioning [54–56] and improved coping and self-esteem [57]. It has also been linked to greater emotional resilience [58, 59], improved cognitive performance

and self-efficacy [60, 61]. The presence of empathy also forms a critical element of the social support structure for young people [62].

Researchers propose that the development of empathy, social responsibility and civic engagement among young people should be a priority concern, since not only are these processes critical for positive youth development, they are also fundamental for promoting social democracy [50, 63, 64]. On a societal level, the development of empathy and social responsibility values are critical to the foundation for broader social attitudes and behaviours and appear to play a key role in fostering social connectedness [63, 65, 66]. Research studies have found a significant connection between empathy, improved social functioning and competence [67, 68]. Moreover, evidence suggests that a person's capacity for empathy can be strengthened over time, based on their social experiences and the presence of ecological assets [64, 69].

The concept of social empathy, central to which is awareness of inequalities in society, Segal [70] understands as 'the ability to understand people by perceiving or experiencing their life situations and as a result gain insight into structural inequalities and disparities'. The three components of the social empathy model – individual empathy, contextual understanding and social responsibility – she argues, go beyond civic engagement, offering a form of volunteerism that advances social action and responsibility. Wagaman also ([71], p. 291) views the combination of individual empathy and contextual understanding to be critical in working with adolescents to ensure they 'are empowered and understand how to apply their new skills to other issues and circumstances'. This amalgamation of social and individual factors is also highlighted in the findings from a systematic review on the development of empathy and prosocial behaviour that concluded: 'the expression of empathy and prosocial behaviour among adolescents is related to their exposure to key environmental processes (e.g. parental modelling, extra-curricular activities, school/neighbourhood climate), as well as their individual skills and values (e.g. self-efficacy beliefs, values, emotion regulation)'. ([62], p. 432).

5. Conclusion

Young people engaging in volunteering are encountering some of the greatest, unanticipated challenges facing society in decades including the Covid-19 pandemic, the rise in extreme poverty and an increase in the number of migrants and displaced persons globally. In this context, the role of youth volunteering in fostering a culture of citizenship, democracy and social cohesion is critical and increasingly recognised in policy. At the same time, the rising popularity of alternative forms of volunteering such as cyber or digital modes greatly expands the scope for young people to engage in volunteering that transcends borders and to participate in social action on their own terms. In seeking to stimulate volunteering among young people, the need for outreach to all sectors of society, particularly to under-represented groups, has emerged as a priority for policymakers.


Youth volunteering is understood as embracing a wide range of civic and societal objectives. While some characterisations of volunteering highlight benefits it accords at the individual level, increasingly, policy responses are focusing on the 'other-oriented' elements that contribute to an inclusive, committed and tolerant society. As a space for critical thinking about structural and personal issues, volunteering affords young people the contextual experience in which to develop perspective-taking skills and social responsibility values. Frameworks for empathy and global consciousness, in particular, offer a valuable lens through which future approaches to youth volunteering may be oriented in both policy and practice.

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References

- [1] United Nations Volunteers (UNV). 2022 State of the World's Volunteerism Report: Building Equal and Inclusive Societies. Germany: Bonn; 2021
- [2] United Nations Volunteers (UNV). Youth and Volunteerism Knowledge Portal. 2020. Available at: Youth and Volunteering | Knowledge Portal on Volunteerism (unv.org)
- [3] European Commission (EC). Press release - The Commission steps up action for high quality and inclusive youth volunteering. 2022a. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_284
- [4] AmeriCorps. Key Findings from the 2019 Current Population Survey: Civic Engagement and Volunteering Supplement. Washington, DC: AmeriCorps, Office of Research and Evaluation; 2021
- [5] Australian Institute of Health and Welfare (AIHW). 2021. Available at <https://www.aihw.gov.au/reports/australias-welfare/volunteers>
- [6] Roche M. The Big Trend: Are Young People Replacing Old People as the Key Volunteering Group? 2020. Available at: <https://nfpsynergy.net/blog/%E2%80%98v%E2%80%99-rate-six-ways-pandemic-has-shaped-volunteering>
- [7] Dunn J, Chambers S, Hyde M. Systematic review of motives for episodic volunteering. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2016;27(1):425-464
- [8] European Commission (EC). Commission Staff Working Document Accompanying the document Proposal for a Council Recommendation on the Mobility of Young Volunteers Cross the European Union. 2022b. Available at: <https://op.europa.eu/en/publication-detail/-/publication/8cb18126-7488-11ec-9136-01aa75ed71a1/language-en>
- [9] Council of Europe. Recommendation of 5 April 2022 on the mobility of young volunteers across the European Union (Text with EEA relevance) 2022/C 157/01. 2022. Available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022H0411\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022H0411(01))
- [10] United Nations Development Programme (UNDP). UNDP Youth Strategy 2014-17: Empowered Youth, Sustainable Futures. New York, NY: UNDP; 2014
- [11] Evers A. The meaning of volunteering: The general and constant versus the differentiating and shifting. *Foundations of Science*. 2016;21(2):339-342
- [12] Evers A, von Essen J. Volunteering and civic action: Boundaries blurring, boundaries redrawn. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2019;30(1):1-14
- [13] Stanley K. More than a numbers game: A UK perspective on youth volunteering and active citizenship. In: Williamson H, Hoskins B, editors. *Charting the Landscape of European Youth Voluntary Activities*. Strasbourg: Council of Europe Publishing; 2006. pp. 107-120
- [14] European Commission. European Union Youth Strategy 2019-2027 Engaging, Connecting and Empowering

young people: a new EU Youth Strategy. 2018. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0269&from=en>

[15] United Nations Educational, Scientific and Cultural Organization (UNESCO). Operational Strategy on Youth 2014-2021. Paris: United Nations Education, Science and Cultural Organization; 2014

[16] UNDP and UN. Youth Volunteering: Supporting Young People's Engagement in Covid-19 Response and Recovery. 2020. Available at: <https://www.unv.org/publications/youth-volunteering-supporting-young-peoples-engagement-covid-19-response-and-recovery>

[17] OECD. Youth and Covid-19: Response, Recovery and Resilience. 2020. Available at https://read.oecd-ilibrary.org/view/?ref=134_134356-ud5kox3g26&title=Youth-and-COVID-19-Response-Recovery-and-Resilience

[18] European Commission. Proposal for a Council Recommendation on Mobility of Young Volunteers in Europe. 2008. Available at: <https://op.europa.eu/en/publication-detail/-/publication/500bd6d5-7488-11ec-9136-01aa75ed71a1/language-en>

[19] Sipos A. EU youth strategy and the European youth goals – Can they help in achieving solidarity? In: Europe talks solidarity. Vienna: Solidarity Corps Resource Centre; 2021. pp. 1-22

[20] UNESCO. Global Citizenship Education: Topics and Learning Objectives. 2015. Retrieved from <http://unesdoc.unesco.org/images/0023/002329/232993e.pdf>

[21] Albanesi C, Guarino A, Zani B, Cicognani E, Tzankova I. Civic engagement in a changing world:

Does it contribute to the development of global citizenship? TPM: Testing, Psychometrics, Methodology in Applied Psychology. 2019;26(4):495-511

[22] Lehner M, Mattes A, Reeger U, Carlà A and Flarer H. VOLPOWER: Volunteer and Empower: Enhancing Community Building and Social Integration through Dialogue and Collaboration amongst Young Europeans and Third-Country Nationals. 2021. Available at: <http://www.volpower.eu/policy-recommendations/>

[23] Gil-Lacruz A, Marcuello-Servós C, Saz-Gil M. Youth volunteering in countries in the European Union: Approximation to differences. Nonprofit and Voluntary Sector Quarterly. 2016;45(5):971-991

[24] Clary E, Snyder M. The motivations to volunteer: Theoretical and practical considerations. Current Directions in Psychological Science. 1999;8(5):156-159

[25] Laitinen H. Empowering new agents of civil society or fostering good citizens? Framing youth participation in Finnish youth organizations. Journal of Civil Society. 2018;14(4):328-345

[26] Marta E, Guglielmetti C, Pozzi M. Volunteerism during young adulthood: An Italian investigation into motivational patterns. VOLUNTAS International Journal of Voluntary and Nonprofit Organizations. 2006;17(3):221-232

[27] Veludo-de-Oliveira T, Pallister J, Foxall G. Unselfish? Understanding the role of altruism, empathy, and beliefs in volunteering commitment. Journal of Nonprofit & Public Sector Marketing. 2015;27(4):373-396

[28] Taylor-Collins E, Harrison T, Thoma SJ, Moller F. A habit of social action: Understanding the factors

associated with adolescents who have made a habit of helping others. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2019;**30**(1):98-114

[29] Bekkers R, van Ingen E, de Wit A, van Groenou MB. Why do people volunteer? A review of the literature. In: *Proceedings of the 45th ARNOVA Conference*. Washington, DC: ARNOVA; 2016. pp. 17-19

[30] Dean J. How structural factors promote instrumental motivations within youth volunteering: A qualitative analysis of volunteer brokerage. *Voluntary Sector Review*. 2014;**5**(2):231-247

[31] Oesterle S, Johnson MK, Mortimer JT. Volunteerism during the transition to adulthood: A life course perspective. *Social Forces*. 2004;**82**(3):1123-1149

[32] Hill J, Den Dulk K. Religion, volunteering, and educational setting: The effect of youth schooling type on civic engagement. *Journal for the Scientific Study of Religion*. 2013;**52**(1):179-197

[33] Mainar I, Servós C, Gil M. Analysis of volunteering among Spanish children and young people: Approximation to their determinants and parental influence. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2015;**26**(4):1360-1390

[34] Van Goethem A, Van Hoof A, van Aken M, de Castro B, Raaijmakers Q. Socialising adolescent volunteering: How important are parents and friends? Age dependent effects of parents and friends on adolescents' volunteering behaviours. *Journal of Applied Developmental Psychology*. 2014;**35**(2):94-101

[35] White E. Parent values, civic participation, and children's

volunteering. *Children and Youth Services Review*. 2021;**127**:106115

[36] Dávila M, Díaz-Morales J. Age and motives for volunteering: Further evidence. *Europe's Journal of Psychology*. 2009;**5**(2):82-95

[37] Omoto A, Snyder M, Martino S. Volunteerism and the life course: Investigating age-related agendas for action. *Basic and Applied Social Psychology*. 2000;**22**(3):181-197

[38] Okun M, Schultz A. Age and motives for volunteering: Testing hypotheses derived from socioemotional selectivity theory. *Psychology and Aging*. 2003;**18**(2):231-239

[39] Almog-Bar M, Ashkenazi-Anor M, Hersberger-Langlosh S, Compion S, Butcher J. Age is but a number? An exploration of age differences in episodic volunteering. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2022;**33**(3):483-496

[40] Bonnesen L. Social inequalities in youth volunteerism: A life-track perspective on Danish youths. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*. 2018;**29**(1):160-173

[41] Davies J. "We'd get slagged and bullied": Understanding barriers to volunteering among young people in deprived urban areas. *Voluntary Sector Review*. 2018;**9**(3):255-272

[42] Holdsworth C. Why volunteer? Understanding motivations for student volunteering. *British Journal of Educational Studies*. 2010;**58**(4):421-437

[43] Brady B, Chaskin C, McGregor C. Promoting civic and political engagement among marginalized urban youth in three cities: Strategies and challenges.

Children and Youth Services Review. 2020;**116**:105184

[44] Gesthuizen M, Scheepers P. Educational differences in volunteering in cross-national perspective: Individual and contextual explanations. *Nonprofit and Voluntary Sector Quarterly*. 2012;**41**(1):58-81

[45] Nursey-Bray MM, Masud-All-Kamal DG, M and Millcock, S. Building community resilience through youth volunteering: Towards a new model. *Regional Studies, Regional Science*. 2022;**9**(1):242-263

[46] Nordstrom O, Tulibaski K, Peterson T. Bridging the gap: A qualitative analysis of what it takes to inspire youth to engage in volunteering. *Nonprofit and Voluntary Sector Quarterly*. 2022;**51**(2):350-368

[47] Shaw A, Brady B, McGrath B, Brennan M, Dolan P. Understanding youth civic engagement: Debates, discourses, and lessons from practice. *Community Development*. 2014;**45**(4):300-316

[48] CASEL. Advancing Social and Emotional Learning. 2021. Available at <https://casel.org/fundamentals-of-sel/what-is-the-casel-framework/>

[49] León-Jiménez S, Villarejo-Carballido B, López de Aguilera G, Puigvert L. Propelling children's empathy and friendship. *Sustainability*. 2020;**12**(18):7288

[50] Rossi G, Lenzi M, Sharkey J, Vieno A, Santinello M. Factors associated with civic engagement in adolescence: The effects of neighbourhood, school, family and peer contexts. *Journal of Community Psychology*. 2016;**44**:1040-1058

[51] Ginwright S, Cammarota J. New terrain in youth development: The

promise of a social justice approach. *Social Justice*. 2002;**29**:82-95

[52] Dill JS. The moral education of global citizens. *Society*. 2012;**49**(6):541-546

[53] Oxley L, Morris P. Global citizenship: A typology for distinguishing its multiple conceptions. *British Journal of Educational Studies*. 2013;**61**(3):301-325

[54] Akinin LB, Dunn EW, Whillans AV, Grant AM, Norton MI. Making a difference matters: Impact unlocks the emotional benefits of prosocial spending. *Journal of Economic Behavior & Organization*. 2013;**88**:90-95

[55] Konrath S. The power of philanthropy and volunteering. *Wellbeing: A complete reference guide. Interventions and Policies to Enhance Wellbeing*. 2014;**6**:387

[56] Schreier H, Schonert-Reichl K, Chen E. Effect of volunteering on risk factors for cardiovascular disease in adolescents: A randomized controlled trial. *JAMA Pediatrics*. 2013;**167**(4):327-332

[57] Zuffiano A, Alessandri G, Kanacri B, Pastorelli C, Milioni M, Ceravolo R, et al. The relation between prosociality and self-esteem from middle adolescence to young adulthood. *Personality and Individual Differences*. 2014;**63**:24-29

[58] Kimber B, Sandell R, Bremberg S. Social and emotional training in Swedish schools for the promotion of mental health: An effectiveness study of 5 years of intervention. *Health Education Research*. 2008;**23**(6):931-940

[59] Kim J, Morgul K. Long-term consequences of youth volunteering: Voluntary versus involuntary service. *Social Science Research*. 2017;**67**:160-175

- [60] Malti T, Chaparro MP, Zuffianò A, Colasante T. School-based interventions to promote empathy-related responding in children and adolescents: A developmental analysis. *Journal of Clinical Child & Adolescent Psychology*. 2016;**45**(6):718-731
- [61] Zins J, Bloodworth M, Weissberg R, Walberg H. The scientific base linking social and emotional learning to school success. *Journal of Educational and Psychological Consultation*. 2007;**17**(2-3):191-210
- [62] Silke C, Brady B, Boylan C, Dolan P. Factors influencing the development of empathy and pro-social behaviour among adolescents: A systematic review. *Children and Youth Services Review*. 2018;**94**:421-436
- [63] Cuff B, Brown S, Taylor L, Howat D. Empathy: A review of the concept. *Emotion Review*. 2016;**8**(2):144-153
- [64] Wray-Lake L, Syvertsen AK, Flanagan CA. Developmental change in social responsibility during adolescence: An ecological perspective. *Developmental Psychology*. 2016;**52**(1):130-142
- [65] Hylton ME. The role of civic literacy and social empathy on rates of civic engagement among university students. *Journal of Higher Education Outreach and Engagement*. 2018;**22**(1):87-106
- [66] Wang X, Lei L, Yang J, Gao L, Zhao F. Moral disengagement as mediator and moderator of the relation between empathy and aggression among Chinese male juvenile delinquents. *Child Psychiatry & Human Development*. 2017;**48**(2):316-326
- [67] Padilla-Walker L, Carlo G, Nielson M. Does helping keep teens protected? Longitudinal bidirectional relations between prosocial behavior and problem behavior. *Child Development*. 2015;**86**(6):1759-1772
- [68] Sallquist J, Eisenberg N, Spinrad T, Eggum N, Gaertner B. Assessment of pre-schoolers positive empathy: Concurrent and longitudinal relations with positive emotion, social competence, and sympathy. *Journal of Positive Psychology*. 2009;**4**(3):223-233
- [69] Silke C, Brady B, Boylan C, Dolan P. Empathy, social responsibility, and civic behavior among Irish adolescents: A socio-contextual approach. *The Journal of Early Adolescence*. 2021;**41**(7):996-1019
- [70] Segal A. Social empathy: A model built on empathy, contextual understanding and social responsibility that promotes social justice. *Journal of Social Service Research*. 2011;**37**(3):266-277
- [71] Wagaman A. Social empathy as a framework for adolescent empowerment. *Journal of Social Service Research*. 2011;**37**(3):278-293

Working toward an Equity-Based Model for Volunteering and Service-Learning Projects in Higher Education

Daniel Bartholomay

Abstract

Volunteering and service-learning projects (VSLPs) in higher education have gained much praise for the educational benefits they provide students. Less attention has focused on the challenges that may accompany these types of projects, particularly for students and faculty from underrepresented communities. Analyzing previous scholarship and current case studies from both a student and professor who have first-hand experience with VSLPs at a minority-serving institution, this chapter critically examines the educational and professional challenges VSLPs may present for both students and faculty in higher education. Evidence from the case studies suggest that VSLPs may demand unrealistic, unattainable, or problematic expectations from students and faculty. The case studies also suggest that students and faculty from marginalized communities and/or precarious positions are most negatively impacted. Developing a better understanding of how and why these challenges exist may help shift our practices toward an equity-based model of VSLPs in higher education.

Keywords: volunteering, service-learning, equity, higher education, minority-serving institution

1. Introduction

Projects and assignments that require students to volunteer or complete service-learning projects have become increasingly common in colleges and universities around the world. Centered around volunteering or participating in community service, service-learning is defined as a “course-based, credit-bearing educational experience in which students (a) participate in an organized activity that meets identified community needs and (b) reflect on the service activity in such a way as to gain further understanding of course content, a broader appreciation of the discipline, and an enhanced sense of personal values and civic responsibility,” [1]. While service-learning projects include the distinctive component of engaging students in critical thinking and reflection in connection to course learning outcomes [2], standalone volunteering projects and service-learning projects in higher education share much in common.

Volunteering and service-learning projects (VSLPs) both ask students to freely offer their time, skills, and abilities to help serve individuals, communities, and/or organizations in need. When VSLPs are incorporated as a required component of college or university courses, they also require a substantial amount of effort and coordination by course instructors. Instructors are tasked with the responsibilities of establishing relationships with community partners; communicating guidelines and expectations for student involvement; monitoring and evaluating student participation; and—in the case of service-learning—assessing student learning outcomes derived from the project.

The incorporation of VSLPs in higher education has yielded much praise in the scholarship of teaching and learning. When done correctly, VSLPs have been found to enhance students' civic responsibility [3, 4], reduce negative stereotypes of outgroups [5, 6], increase empathy [7, 8], and develop critical thinking and problem-solving skills [2]. These benefits are notable, however the potential consequences of requiring VSLPs in higher education are less frequently considered. This is especially true for students from marginalized communities who may lack the time and resources required to complete VSLPs. Even less attention has been paid to the negative impacts VSLPs may impose upon instructors – particularly those in precarious positions in academia, such as adjuncts and non-tenured professors. VSLPs may produce valuable learning outcomes for students, but requiring these types of projects may exacerbate pre-existing inequities in higher education for both students and faculty.

Analyzing previous scholarship and current case studies from both a student and professor who have first-hand experience with VSLPs, this chapter critically examines the educational and professional challenges VSLPs may present for both students and faculty in higher education. The purpose of this writing is to shed light on the ways that VSLPs may demand unrealistic, unattainable, or problematic expectations from students and faculty, and how students and faculty from marginalized communities and/or precarious positions are most negatively impacted. It is my hope that by better understanding how and why these challenges exist, we may be able to shift our practices toward an equity-based model of VSLPs in higher education.

2. Problems with VSLPs in higher education

Instructors who incorporate VSLPs into their curriculum sometimes do so with the intent of increasing students' cultural competency and empathy for different cultures. While good-intentioned, this can result in the opposite effect, further fostering perceived differentness between people in communities who serve and those who require service. Framing VSLPs as an opportunity to help communities “in need” or “deficient” enables students to “...separate themselves from the problems they encounter. They fail to see that often the same social structures which work well for them create the needs in the communities in which they do service-learning,” [9].

Many students engaged in VSLPs enter and “serve” communities that they are not part of, which can feed into the trope that these communities are in some way incapable of taking care of themselves and solving their own problems [9]. Another critique of VSLPs is that they reinforce a problematic binary between those who serve (privileged) and those who need to be served (oppressed) [10]. Institutions may apply this oversimplified dichotomy to support the implementation of compulsory VSLPs, however doing so glosses over the reality that both students and community members being served occupy multiple, intersecting identities of privilege and oppression.

For example, research suggests that students' gender, age, race, and social class can affect how students engage with and learn from service-learning [3, 4, 10–13].

When VSLPs in higher education are required for students rather than being optional, proponents suggest that students who would not normally volunteer for such projects may also reap their benefits. However, critics argue that requiring students to participate in service learning is an unethical practice of involuntary servitude [14, 15]. Students who feel forced to volunteer their time and energy toward VSLPs may complete their service poorly, which could result in negative learning outcomes for themselves and their classmates. Perhaps most problematic is that students who fail to meet performance expectations may waste the time and resources of the community partners they are working with, which in turn further disadvantages the communities they are striving to serve.

Effective VSLPs often require much labor at the expense of the community partner [16, 17]. Students need training, supervision, support, and evaluation, all of which tap into the already limited resources partnering agencies have to offer. This reality contradicts the idea that service learners offer “free labor” through volunteering their time and talents. Such claims rely on the falsely held belief that students enter sites already equipped with knowledge and skills they need to serve. To this end, colleges and universities should equitably contribute their resources to service-learning agencies. While some institutions may do this, no such democratic partnership is guaranteed. In such cases, individual professors may be expected to pick up the extra work and costs required to effectively and ethically conduct service-learning projects.

In the following section, I unpack two case studies examining the pros and cons of requiring VSLPs in higher education. The first case study centers on a university student who was required to complete volunteer work for one of their courses. The second case study presents the experiences of a university professor who required their students to complete a service-learning project. While both case studies echo many of the benefits and challenges that prior research on VSLPs has unveiled, these case studies also further the discourse by presenting unique insights. Namely, both the student and the professor shed light on ways in which required VSLPs are enmeshed with invisible labor and restraints that disproportionately impact students and professors from marginalized communities. Better understanding the barriers and restrictions students and instructors face when implementing and completing VSLPs can inform recommendations for an equity-based model.

3. University context for case studies

Minority-Serving Institutions (MSIs) are universities and colleges in the United States that enroll a significant percentage of self-identified minority students from historically underrepresented and marginalized racial and ethnic groups such as American Indian, Alaskan Native, Asian, Pacific Islander, Black (not of Hispanic origin), Hispanic, and two or more of these groups. “University Q” is one such MSI with the additional federal designation of being a Hispanic-Serving Institution (HSI).

The Carnegie Classification for University Q is “R2,” meaning a doctoral university with “high research activity” [18]. This designation is significant, as many faculty have had to pivot from prioritizing teaching to finding ways to simultaneously prioritize teaching *and* research or, in some cases, prioritize research above teaching.

This expectation can alter and increase workloads, which in turn impacts faculty members' decisions about whether VSLPs are feasible.

According to the University Q Data Center [19], 10,762 students were enrolled at the university during Fall 2021, of which 60 percent (6,438 students) were from underrepresented minority groups. For further context, nearly 50 percent of University Q students self-identified as Hispanic, and nearly 50 percent identified as first-generation students. While I do not have data on students' socioeconomic backgrounds, based on my own observations and conversations with students and colleagues, it seems that a significant portion of University Q students work part time or full time while carrying full course loads. A number of those working students also have substantial caregiving responsibilities.

3.1 Case study 1: student perspective

Student A is a current student at University Q. They completed a five-week summer course in 2022, in which the professor asked students to volunteer at a senior living facility once a week for the duration of the course.

Reflecting on their time volunteering at the facility, Student A reported experiencing many of the benefits the literature has associated with VSLPs. Student A described how volunteering provided students with direct, real-world context for some of the scientific concepts and ideas that were being covered in the class. Student A described how interacting with residents at the facility provided a "better understanding of how they live their day-to-day life" rather than solely relying on secondhand accounts provided through readings or lectures. Student A also felt a sense of beneficence after volunteering, describing their experience as a rewarding opportunity to contribute to their community.

Despite these positive outcomes, Student A identified a number of barriers that prevented them – and likely others – from fully engaging with the volunteer experience. The professor of the course wanted students to volunteer at the facility once a week, but Student A described several factors that made that expectation unattainable. Student A explained that the professor encouraged students to volunteer at one particular senior living facility because the professor had established a good relationship with them as a community partner. However, this particular facility had limited hours for people to volunteer, specifically between the hours of 9 a.m. and 2 p.m. The facility also only welcomed volunteers Monday through Thursday. Student A explained, "I actually could only go twice in the five weeks because I was working basically every day, so it was hard to find time. And yeah, they weren't open on weekends, either."

Student A said the professor did mention an alternative facility with more flexible hours that students could volunteer at if the preferred option was not viable, but Student A suggested that the additional site still did not resolve accessibility issues. They explained, "the secondary location had better hours, but with the way my schedule was, I was working like almost every day from 8 or 9 a.m. to about 5 p.m. So I really couldn't make, even with that other alternative, I couldn't really make it for the most part."

Another challenge Student A addressed was transportation to the volunteer site. The facility recommended by the professor was located nearly ten miles from the university. Commuting from the university to the facility would take roughly 20 minutes by car, but that commute would take closer to an hour for students utilizing public transportation. Student A had their own vehicle, but acknowledged

that “for students who don’t have cars ... that was a big hurdle for them ... They would have to figure out, either coordinate with someone or figure out a way to get their on their own volition.”

When asked what suggestions Student A would offer to professors who plan to ask their students to volunteer, their answer was clear: “Flexibility is the main thing ... Have a few alternative assignments in place ... A lot of students don’t have access to cars, so they need to rely on public transportation, or get an Uber, which either take a lot of time or cost a lot of money ... especially for students that also are super busy because they are doing full-time work.”

Despite the barriers associated with asking students to volunteer, Student A still thought the benefits of the project outweighed the challenges. They explained, “I still think it provides a lot of value to the students here. It gets students out of their comfort zone. They kind of serve the community, and I guess see different perspectives and see and experience things that they might not have experienced, because I guess a lot of students live in their own bubble ... They rarely, if ever, go venture out to the other parts and see how people in the city are living, or other issues that you know people might face ... I think students benefit a lot from that.”

While Student A’s professor was understanding and lenient with students on a case-by-case basis who could not meet the once a week commitment, it is nonetheless important to consider the implications of instructors asking students to complete volunteer work knowing that the requests are unattainable for many. Student A was employed in addition to their studies – as are 40 percent of full-time college students and 74 percent of part-time college students in the United States [20]. Operating from the assumption that students have the time, resources, and flexibility to volunteer outside of regularly scheduled class hours implies that students ought to be able to meet these demands, regardless of their circumstances.

3.2 Case study 2: faculty perspective

“It was a really great experience, but after all was said and done, I was like, I’m never doing this again.” – Professor Z.

Professor Z views service-learning as a tool to engage students in critical thinking and applied learning, pedagogical practices that they believe should always be priorities, regardless the discipline or topic. When it comes to implementing service-learning in their courses, however, Professor Z has had a complicated – and at times, problematic – series of experiences over the past decade. In their early years as a tenure-track professor at an HSI, Professor Z observed that many college students needed more exposure, practice, and scaffolding with critical thinking. Professor Z critiqued the deficit-based mindset that is often ascribed to students at HSIs. They explained, “It wasn’t that students weren’t smart ... students just weren’t getting the tools.” Rather than viewing their students in need of fixing, Professor Z prioritized identifying students’ strengths and building learning opportunities upon those assets. One potential strength Professor Z identified to build upon for these students was applied learning experiences outside of the classroom.

To become familiar with university policies involved with asking students to volunteer off campus, Professor Z thought it was more practical to first experiment with taking students on a field trip to a local organization that could become a potential site for future service-learning projects. Professor Z explained how organizing a seemingly simple task such as an educational field trip was, instead, an intricately

complex endeavor situated in a system of bureaucracy and power. Professor Z was careful to follow their university's protocols for requiring students to travel off campus, even though the organization was only a few miles away. They explained, "At the time, I didn't have tenure ... You have to think of worst-case scenarios," implying that if anything would go wrong, they could potentially lose their job. After a series of inquiries, Professor Z obtained the required documentation that is *supposed to be completed* whenever students travel off campus. Before students could go on the field trip, the university required 1) a detailed trip itinerary, 2) a list of participants and signatures, 3) medical treatment authorization forms for each traveler, 4) emergency contact information for each traveler, 5) driver release forms for anyone driving to the site, and 6) a finalized student travel checklist.

Barriers to service-learning created by red tape on the university's side are rarely discussed in the literature, which made me intrigued as to why Professor Z had the intuition to inquire about the appropriate paper trail. Professor Z explained how being a faculty member affiliated with underrepresented groups in academia affects their approach toward experimenting with and developing new pedagogy. They elaborated, "My outsider status ends up being amplified here. From day one, I was under a magnifying glass. Anything regarding teaching pedagogy was met with questions or skepticism." To ensure that nothing would be held against them should anything go wrong, Professor Z was "in constant communication [with various university departments] because the last thing I needed was someone coming back at me. And again, this was for one afternoon at the organization."

The field trip was a success, but the additional labor and scrutiny Professor Z endured deterred them from further developing the project for future classes. They said, "It was a really great experience, but after all was said and done, I was like, I'm never doing this again." Professor Z explained that while students engaged in meaningful learning and felt personally rewarded for investing in their community, Professor Z received little to no credit toward promotion and tenure for successfully implementing the project, despite the excessive time and labor that went into it. Professor Z explained that to the university, "it was as if I didn't do anything. For an individual faculty member who didn't have tenure, I could have spent that time doing something else – all those hours I could have been working on a conference paper, working on an R&R [revise and resubmit] ... and then I was placed in certain ethical and moral dilemmas ... it was too stressful, and It shouldn't be that way."

Professor Z waited five years before they reintegrated a full service-learning project into their course. While Professor Z views the project as largely beneficial to both the community partners and the students involved, they continue to hold concerns about the university's lack of support and recognition for the amount of work that instructors put into developing successful service-learning projects. Professor Z's insight also highlights the added dimensions of precarity that faculty with marginalized identities must navigate when determining whether developing and implementing service-learning projects is in their best interest, professionally. "Service-learning is one of many considerations of how much labor am I going to engage in, but also how much potential conflict I'm going to engage in any season. Even when my expertise and value system tell me the best way to teach and reach my students and make a difference... I have to be aware of who I am and how I will be judged. I'm not gonna get bogged down in the negativity of it. I just need to be very practical and realistic of the formal and informal constraints."

4. Conclusion

The findings from case studies should not be considered generalizable to the entire population, nonetheless this rich, in-depth form of qualitative data analysis can provide nuanced insight to underexamined topics [21]. The case studies presented here by Student A and Professor Z spark thoughtful questions about VSLPs – particularly in the context of MSIs – and identify several avenues worthy of further research.

The educational and personal benefits students experience when completing VSLPs may be overshadowing the accessibility barriers many students face when asked to complete VSLPs – particularly for students that are low-income, students without reliable transportation, students that are working part or fulltime, and students with dependents. The lack of scholarly attention to this issue suggests that most instructors who require VSLPs in their courses operate from the privileged assumption that all students have the means and abilities to volunteer their time and energy outside of regularly scheduled class hours. Students lacking the resources to complete VSLPs may suffer worse grades as a result, demonstrating how required VSLPs could inadvertently worsen education disparities for marginalized groups, despite the well-documented educational benefits VSLPs can provide.

The challenges professors face developing and implementing VSLPs also warrant further scrutiny. Failing to adhere to institutional policies and to submit required documentation regarding student travel off campus can put professors in precarious positions should something happen to a student while they are completing the VSLP. I have never seen a discussion about the burdensome yet important institutional travel policies that precede VSLPs in the literature, which potentially suggests that many educators utilizing VSLPs are overlooking this part of the process. Improved transparency and discussion about student travel policies for VSLPs will help ensure that students, faculty, and community partners are all protected.

The amount of time and labor instructors put into developing, implementing, and evaluating VSLPs also deserves further consideration. Successful VSLPs require much effort from instructors. For college professors with research expectations beyond teaching, choosing to incorporate VSLPs into their courses may negatively impact their pursuit of promotion and tenure. Given that women faculty and faculty of color complete disproportionate amounts of service work [22–24] VSLPs may further exacerbate disparities amongst professors in higher education.

Drawing from previous scholarship and considering the experiences of Student A and Professor Z, I present the following recommendations to move toward an equity-based model for VSLPs in higher education. While this list is not exhaustive, institutions and instructors who adopt these practices will promote equitable teaching, learning, and professional development in alignment with social justice.

1. Make VSLPs optional rather than mandatory.
2. Offer an alternative assignment for students who are not able to complete the VSLP.
3. Choose community partners with flexible hours and modalities for students to volunteer, including nights, weekends, and remote opportunities.

4. Provide multiple options for community partners so students may choose the one that best meets their needs in terms of location and hours of operation.
5. Include at least one community partner at the college or university to promote accessibility for students living on or near campus.
6. Improve transparency around institutional student travel policies in relation to VSLPs.
7. Request that institutions create exceptions for bureaucratic policies and red tape surrounding “student travel” that may discourage faculty from developing service-learning projects within their local communities.
8. Encourage departments, colleges, and universities to revise guidelines to ensure that professors designing and implementing VSLPs are given adequate credit toward promotion and tenure.
9. Require colleges and universities to equitably contribute their resources to service-learning agencies to reduce the burdens imposed upon community partners and instructors.

Conflict of interest

The author declares no conflict of interest.

Thanks

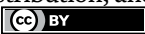
I would like to thank Student A and Professor Z for volunteering to share their experiences with me. Collecting and analyzing stories such as theirs is a necessary in order to cultivate a shift toward an equity-based model for VSLPs.

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References

- [1] Bringle RG, Hatcher JA. A service-learning curriculum for faculty. *Michigan Journal of Community Service Learning*. 1995;**2**(1):112-122
- [2] Rondini AC. Observations of critical consciousness development in the context of service learning. *Teaching Sociology*. 2015;**43**(2):137-145
- [3] Caspersz D, Olaru D. The value of service-learning: The student perspective. *Studies in Higher Education*. 2017;**42**(4):685-700
- [4] Lee JJ. Home away from home or foreign territory?: How social class mediates service-learning experiences. *NASPA Journal*. 2005;**42**(3):310-325
- [5] Eyler J, Giles DE Jr. Where's the Learning in Service-Learning? Jossey-Bass Higher and Adult Education Series. San Francisco: Jossey-Bass, Inc.; 1999. p. 350
- [6] Steck LW, Engler JN, Ligon M, Druen PB, Cosgrove E. Doing poverty: Learning outcomes among students participating in the community action poverty simulation program. *Teaching Sociology*. 2011;**39**(3):259-273
- [7] Einfeld A, Collins D. The relationships between service-learning, social justice, multicultural competence, and civic engagement. *Journal of College Student Development*. 2008;**49**(2):95-109
- [8] Lundy BL. Service learning in life-span developmental psychology: Higher exam scores and increased empathy. *Teaching of Psychology*. 2007;**34**(1):23-27
- [9] Eby JW. Why service learning is bad [Internet]. 1998. Available from: https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1011&context=slceslgen&sei-redir=1&referrer=https%253A%252F%252Fscholar.google.com%252Fscholar%252Fhl%252Den%2526as_sdt%253D0%25252C44%2526q%253Dwhy%252Bservice%252Blearning%252Bis%252Bbad%2526oq%253Dwhy%252Bservice%252B#search=%22why%20service%20learning%20bad%22 [Accessed: 2022-08-01]
- [10] Henry SE. "I can never turn my back on that": Liminality and the impact of class on service-learning experience. In: Butin DW, editor. *Service-Learning in Higher Education*. New York: Palgrave Macmillan; 2005. pp. 45-66
- [11] Chesler M, Scalera CV. Race and gender issues related to service-learning research. *Michigan Journal of Community Service Learning*. 2000;**42**(3):572-587
- [12] Clever M, Miller KS. "I understand what they're going through": How socioeconomic background shapes the student service-learning experience. *Teaching Sociology*. 2019;**47**(3):204-218
- [13] Pelco LE, Ball CT, Lockeman K. Student growth from service-learning: A comparison of first-generation and non-first-generation college students. *Journal of Higher Education Outreach and Engagement*. 2014;**18**(2):49-66
- [14] Brock KL. Promoting voluntary action and civil society through the state. *Isuma/Canadian Journal of Policy Research*. 2001;**2**:53-61
- [15] Marks HM, Jones SR. Community service in the transition: Shifts and continuities in participation from high school to college. *The Journal of Higher Education*. 2004;**75**(3):307-339

- [16] Cronley C, Madden E, Davis JB. Making service-learning partnerships work: Listening and responding to community partners. *Journal of Community Practice*. 2015;**23**(2):274-289
- [17] Karasik RJ. Community partners' perspectives and the faculty role in community-based learning. *The Journal of Experimental Education*. 2020;**43**(2):113-135
- [18] Indiana University Center for Postsecondary Research. Carnegie Classifications [Internet]. 2021. Available from: <http://carnegieclassifications.acenet.edu/downloads/CCIHE2021-PublicDataFile.xlsx> [Accessed: August 30, 2022]
- [19] Texas A&M University Corpus Christi. Data Center [Internet]. 2022. Available from: <https://www.tamucc.edu/president/pir/datacenter.php> [Accessed: 2022-08-30]
- [20] National Center for Education Statistics. College Student Employment. [Internet]. 2022. Available from: https://nces.ed.gov/programs/coe/pdf/2022/ssa_508.pdf [Accessed: August 30, 2022]
- [21] CopyPress. When and How to Use a Case Study for Research. [Internet]. 2021. Available from: <https://www.copypress.com/kb/measurement/when-and-how-to-use-a-case-study-for-research/> [Accessed: September 25, 2022]
- [22] El-Alayli A, Hansen-Brown AA, Ceynar M. Dancing backwards in high heels: Female professors experience more work demands and special favor requests, particularly from academically entitled students. *Sex Roles*. 2018;**79**(3):136-150
- [23] Joseph TD, Hirshfield LE. 'Why don't you get somebody new to do it?' Race and cultural taxation in the academy. *Ethnic and Racial Studies*. 2011;**34**(1):121-141
- [24] O'Meara K, Lennartz CJ, Kuvaeva A, Jaeger A, Misra J. Department conditions and practices associated with faculty workload satisfaction and perceptions of equity. *The Journal of Higher Education*. 2019;**90**(5):744-772

Section 2

Human Rights

Chapter 4

Sharī‘a Law and LGBTQIA+ People: More than Faith vs. Human Rights

Joseph Abraham Levi 雷祖善博士

Abstract

Using as springboard the religious and historical background that led to the formation of the شريعة Sharī‘a Law in Islam, in this work I explore how exegesis and, particularly eisegesis, of Islamic holy texts (Qur’ān and أَحَادِيث *Ahādīth* of the Prophet Muhammad) are used to justify a forced and biased heuristic discourse that fits the needs of certain groups—hailing from diverse regions and nations of the world—that, in the name of Islam (Sunni as well as Shī‘ī) and the entire Muslim community (أُمَّة *ummah*), discriminate against, disenfranchise, and, most of the time, severely penalize members of the LGBTQIA+ community living in their midst. Human rights violations against members of the LGBTQIA+ community living in the Islamic world from the Maghreb and sub-Saharan Africa to the Middle East and Southeast Asia will thus be analyzed within the framework of biased Islamic hermeneutics and rhetoric aimed at controlling its own citizens.

Keywords: discrimination, eisegesis, exegesis, faith, human rights, Islam, LGBTQIA+, Sharī‘a

1. Introduction

Throughout history, heuristic analyses of holy texts, divine and/or divinely inspired, have been the result of a multifaceted approach to urgently address and solve problems of interpretation(s) when it came to unclear, obscure, and/or non-existent passages on a specific (at the time contemporary) topic, thus allowing for the formulation of fixed rules of conduct within a given a society.¹ Heuristic reasoning was particularly useful when dealing with issues not discussed in holy texts simply because they did not exist at the time of their composition and/or simply because, for whatever reason, the holy texts, through their (at times divinely-inspired) writers, were silent about these matters.

Indeed, heuristic is knowledge acquired through an investigative process whereby scholars, by the painstaking act of discovering,² devise a method to create yet, never tangibly prove, a theory that can be transformed into, adapted for, and eventually added to an existing law or canon (religious and/or secular).

¹ For further information on the evolution of heuristics through time, see: [1].

² From Ancient Greek εὕρισκω *heuriskō*, or rather, “to find, to discover.”

Religious heuristics, in oral (through oral tradition) as well as written form, have accompanied humankind since the appearance of the first societies, based on a centralized power, around the world, namely, in the pre-Columbian and pre-Cabraline³ Americas, Europe, Africa, the Middle East, Asia, and the Pacific islands.

Of the three Abrahamic religions (Judaism, Christianity, and Islam), Islam is by far the most interesting to examine when it comes to heuristic analyses and, perforce, the dichotomy exegesis vs. eisegesis.⁴ Indeed, by its very nature, given that chronologically it is the last of these three monotheistic faiths that took their first steps in the Middle East, Islam benefitted from the discourse of Late Antiquity (3rd–7th CE), particularly the philosophical and juridical approach and discourse practiced in the Hellenic (507 BCE–323 BCE) and Hellenistic worlds (323–31 BCE). It is no surprise, then, that during the first four centuries after the death of Prophet Muhammad (c. 570–632), Islam was receptive of the speculative tradition of performing heuristic discourse of Late Antiquity, though imbued with and transformed by a vast array of traditions hailing from the Islamic world, then in the making. Indeed, as Islam was spreading physically and religiously in the Middle East, the Maghreb, West and East Africa, Central Asia, the Indian subcontinent, and Southeast Asia it also absorbed the mores of the conquered lands (provided that they did not contradict the Islamic tenets), including the speculative reasoning and approach to religious and legal texts.

Prior to delving into this matter further, it is necessary to introduce a few key concepts related to Inner Faith, Outward Religion, *Shari'a* law, and Islamic Religious Jurisprudence.

2. Inner Faith (إِيمَان *Īmān*) vs. Outward Religion (دِين *Dīn*)

In Islamic Law, *fiqh* فقه (religious jurisprudence),⁵ *īmān* إيمان is the “inner faith,” or rather, it is the “heart,” *qalb* قَلْب, also referred to as the internal world or (human) conscience (ضمير *ḍamīr*). Outward Religion (دين *dīn*) and *fiqh* are thus two separate entities; yet, they are mutually compatible because they have a common goal: the welfare of humankind (البشر *al-Bashara*), or rather, those who possess an “earthly nature,” i.e., human beings.

Īmān is therefore the intimate counterpart—judged only by God—of the external manifestations of faith, i.e., *al-Islām* الإسلام, which are governed and assessed by the *Shari'a* شريعة, the Divine Law, a set of social/legal beliefs, practices, and rules which all Muslims must follow and respect; hence, the necessity of abiding by, to the letter, its

³ The term pre-Cabraline applies to all the native tribes and nations of present-day Brazil. Pedro Álvares de Gouveia Cabral (c. 1467–c. 1520) was the Portuguese nobleman, military, explorer, and navigator who on April 22, 1500, “discovered” Brazil. For further information on pre-Cabraline Brazil, see: [2].

⁴ For a comprehensive study on the Abrahamic religions in Late Antiquity, see: [3, 4].

⁵ The *fatāwā* فتاوى (singular: فتوى *fatwā*), legal/religious opinions issued by a Muslim scholar, are primarily derived from the *Qur'an* and the *Ahādith* (traditions) of the Prophet Muhammad. Most of the times, the nature of the *fatāwā* will lead *fiqh* (religious jurisprudence) to different, new, and extremely diversified legal circumstances specific to a particular Muslim community, geographical area, region, and/or country of the world. Though accepted by most members of the local communities, in Sunni Islam the *fatāwā* are non-binding, since the believer's acceptance relies upon the actual legal/religious knowledge of the scholar and/or his reputation as an honest, pious, and fair man.

religious, communal, and legal precepts, lest the reproaches and/or penalties imposed upon the believers by the قاض *qādi*, or rather, the Islamic judge, the إمام *imām* (imam in English), the عالم *‘ālim*,⁶ and/or the مُفتي *mufti*⁷ of the local Muslim community, area, region, and/or nation where Islam is the dominant religion.

Inner Faith (*Īmān*) is very intimate and personal; hence, the Law (*Fiqh*) has no jurisdiction over it. In other words, Inner Faith (*Īmān*) cannot be judged by human laws and regulations. On the other hand, human actions are the focus of the Law (*Fiqh*) because they are external (*fi al-zahīri* (في الظاهر)), they are physically tangible, or rather, they are observable; hence, the need to be judged, if and when necessary.

Indeed, in Islam there is no clear-cut separation between the secular and the religious worlds, between the sacred (حرام *Harām*)⁸ and the profane (دنيوي *Dunyawiyy*, literally, the “things of the world”). Technically speaking, there is no profane world, since everything emanates from God. Likewise, the secular aspect of our lives, as believers, is being preempted or occupied by the religious conduct that we, as believers, are expected to follow. This is an absolute must if we want to succeed on Earth (الأرض *al-Arḍ*) as well as in the Afterlife (الآخرة *al-Ākhirah*).

All aspects of life are then connected; hence, they are all ruled by a single set of laws, and integrated into a common axis, in which all Muslims must believe, follow, and practice, inwardly as well as outwardly, though only God can judge the innermost desires, feelings, and thoughts of each believer. As for the rest, then, there is a specific *modus operandi* that has to be obeyed and followed since any transgressions will have to be legally punished; hence, the need for the introduction of the *Shari'a*.

3. *Shari'a* شريعة (The Path)

Literally “a watering place,” and/or “the road;” the شريعة *Shari'a* is the social and religious “path” that all believers have to follow on Earth. As such, the religious law of Islam (*fiqh*) can only rule over human behavior that is directed at or that has consequences on earthly matters. All other actions, even if deplorable or unadvisable, fall outside the jurisdiction of human judgment and cannot be punished/enforced in a court of law.

Among the external manifestations of Inner Faith (*Īman*), and by far the most important ones, there are the الأركان الإسلام *Arkān al-Islām*, or rather, the five “Pillars of

⁶ *‘Alim*, plural عُلَمَاء *‘ulamāh*, is a learned scholar/teacher of Islamic Studies. Oftentimes the term *‘Alim* also bears the connotation of jurist; in this case it is synonymous with فقيه *faqīh*, plural فُقَهَاء *fuqahāh*, the lawmaker or expert in Islamic Law. However, it is also true that all learned scholars in any or all of the Islamic Sciences can in a sense be considered *‘ulamāh*. In some parts of the Muslim world, in the past as well as today, these men were/are also called by their Persian (Farsi) equivalent ملا *mullah*—from the Arabic مؤن *mawla*, “protector, master,” and “supporter”—or rather, “guardian” and/or “vicar.” Today, as in the past, especially in Afghanistan, Central Asia, Turkey, and India, a *mullah* is the local/regional Muslim cleric or, at times, even the mosque leader.

⁷ A *mufti* is a Muslim scholar who, after proper training, schooling, examinations, and scrutiny, is granted authority to interpret or expound the *Shari'a*, i.e., the Divine Law that governs the external actions of all Muslims in a given geographical area, region, and/or country.

⁸ Incidentally, the word *harām* means both “sacred” and “prohibited.”

Islam.”⁹ The external forms of religious practice in Islam are also known as عِبَادَات *‘Ibādāt*, literally “worship,” or إِحْسَان *Ihsān*, or rather, the “highest form of worship.” Literally “making [something] beautiful/good” or “doing [things] beautifully,” the term usually carries the meaning of worshipping God for His Essence, as if we could actually see Him and, at the same time, recognize as a fact that He can indeed see us. In this respect, *Ihsān* should be considered as the quintessence of worship which has at its core the *Qur’ān* and the أَحَادِيث *Ahādīth* of Prophet Muhammad, collectively known as سُنَّة *Sunnah*:

*The ihsānī intellectual tradition begins with the teachings of the Qur’ān and the Prophet Muhammad, who told his companions that “God has ordained ihsān for everything.” In perhaps his most famous teaching on the subject he said: “Ihsān is to worship God as if you see Him, and if you do not see Him, He nonetheless sees you” [5].*¹⁰

In the early years of Islam there was no clear cut-division between the Religious Law (*Fiqh*) and the External Religion (*Dīn*). As a matter of fact, the term *Shari‘a* was introduced at a later date, replacing the multipurpose *Fiqh* (literally, understanding) as the latter word was indiscriminately applied to both the study of the Law proper and Theology as such. *‘Ilm* عِلْم (Knowledge), on the other hand, was first used to describe the collection of the أَحَادِيث *Ahādīth* of the Prophet Muhammad.¹¹

⁹ The *Arkān al-Islām* are the foundation of Islam. They are: (1) the شَهَادَة *shahādah*, or rather, attesting to the Unity of Allah, “there is no god but God,” followed by belief in God’s last messenger: “and that Muhammad is his messenger;” (2) performing the ritual prayer, صَلَات *salāt*, five times a day; (3) paying the زَكَاة *zakāt*, “annual tithe” on one’s wealth; (4) fasting, صَوْم *saum*, during the holy month of Ramadan; (5) performing the حَاج *hajj*, pilgrimage, to Mecca, only if personal health and wealth allow it. The *shahādah* is the first and foremost obligation because, without belief in God, all human actions and works are completely vain. See: *Qur’ān* 18:105; 24:39. Besides this basic, yet extremely fundamental profession of faith, there are six additional traditional articles of Islamic faith, which cover: i. اللَّهُ *Allah*; ii. the Angels, مَلَائِكَة *Al-Malā’ikah*; demons شَيَْاطِين *shayāṭīn*, singular *shayṭān* شَيَْاطَان, or *iblis* إبْلِيس; and *jinn* جِن, singular: جِنِّي *jinnī*; iii. the Holy Scriptures: i.e., the *Torah*, التَّوْرَة *(Al-Tawrah)*, the *Psalms*, الزَّبُور *(Al-Zabūr)*, the *New Testament*, الْإِنْجِيل *(Al-Injīl)*, and the *Qur’ān*, الْقُرْآن *(Al-Qur’ān)*; iv. prophets, رُسُل *rusul*, singular: رَاسُل *rasūl*, and messengers أَنْبِيَاء *anbyā’*, singular: نَبِي *nabī*; v. Resurrection, الْقِيَامَة *Al-Qiyāma*, and judgment, الْحِسَاب *Al-Hisāb*; and vi. Predestination, الْقَدَاة *Al-Qada’*.

¹⁰ For further information, see: [6–9].

¹¹ *Hadīth* حَدِيث, plural أَحَادِيث *Ahādīth*, literally “tradition.” The *Ahādīth* is a selected collection of Muhammad’s sayings, actions, tacit approvals, and general lifestyle attributed directly to him or witnessed by an uninterrupted chain of documented and trustworthy eyewitnesses (إِسْنَاد *isnād*) that go back to the Prophet himself or, in some cases, to those who were near him. Second only to the *Qur’ān*, the *Ahādīth* is the main legal source for uncovering information that can in its turn be applied to the secular as well as the religious life of all Muslims. The عِلْمُ الْحَدِيث *‘Ilm al-Hadīth*, or rather, the “Science of the *Hadīth*,” covers both the exegesis and the hermeneutics of the text(s). As for the hermeneutics, it strives to discover the truth, by: (1) performing a biographical analysis of the narrators; (2) examining the chronological accuracy of the events; (3) performing a physical analysis of the language, the history, the geography, and the sociopolitical background of each narrator/narration; and (4) checking the authenticity of oral and written records attributed to the Prophet Muhammad, his family, and/or his close friends who (most likely might have) witnessed a saying and/or a practice later believed to be and formally accepted as canonical. Usually, the text of the tradition, the مَتْن *matn*, is followed by the إِسْنَاد *isnād*, or rather, the chain of support, the uninterrupted chain of witnesses; the رَاوِي *rawī*, i.e., the teller/narrator of the tradition; the اِتِّصَال *ittisāl*, the non-interrupted, continuous chain of witnesses; and the صَحِيح *sahīh*, or rather, the final stage when the *hadīth* is eventually “accepted,” thus deemed “valid” to be included in the *Ahādīth* of the Prophet Muhammad [10].

One way to avoid confusion, then, given the many meanings of the word *fiqh*, was letting the term *fiqh* be followed by an analytical form; thus the creation of two expressions came to be, namely: *Fiqh fī al-Dīn*, the religious side of the Law, in other words, “the insight into the religion,” and *Fiqh fī al-ʿIlm*, i.e., its secular counterpart, or rather, “the insight into the knowledge.”

On the other hand, the *Shari'a* was the exegesis of the Holy Law contained in both the Qurʾān and the *Ahādīth* of the Prophet Muhammad. Only later then, the *Shari'a* was seen as an encircling corpus of laws which governed all aspects of Islamic life, from conception and birth to death and the Afterlife.

4. Usūl al-Fiqh أَصُولُ الْفِقْهِ (The Roots of Islamic Religious Jurisprudence)

[...] the Islamic value system [...] comes from God and not merely human forms of knowledge which are based by definition upon human reason and the five external senses, and specifically deny any other possible avenue for authentic knowledge [11].

Islamic juridical methodology is usually denominated *Usūl al-Fiqh*, or rather, “the roots (sources) of Islamic Religious Jurisprudence.” Let us look at **Figure 1**. Starting from the right side of the page, we can thus imagine a drawing of a tree (شجرة *shajarah*) with five big, long roots (أُصُول *usūl*), the first of which being the Qurʾān, followed by the *Sunnah* of the Prophet Muhammad, once again, the collection of written and oral sayings (*Ahādīth*) legitimately attributed to Prophet Muhammad. The other three roots are: إجماع *Ijmāh*, the general consensus, or rather, the *vox populi*,

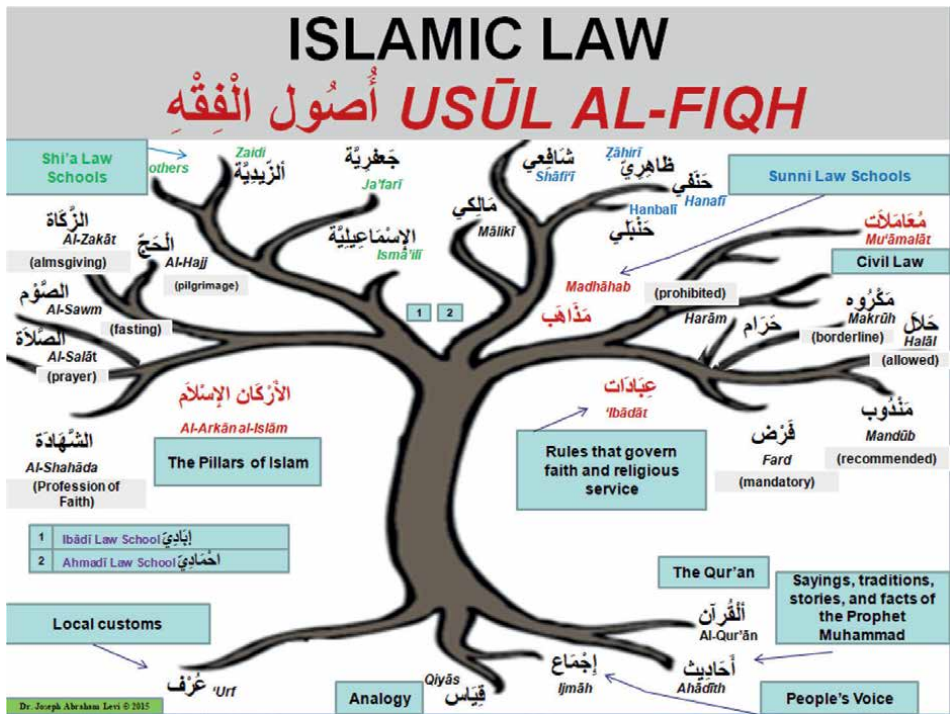


Figure 1.
 Islamic Law. Usūl al-Fiqh. Image created by the author [12].

the voice of the people, almost always represented/carried out by a religious leader; the *قياس Qiyās* (deduction, analogical/syllogistic reasoning) or *رأي ray* (insight/practical and free reasoning); and the *عرف Urf* or *عادة Ādat* (local customs). The *فروع furū* (branches), instead, are the seat for the abovementioned *Arkān al-Islām* (Five Pillars of Islam), the *Madhāhab*, or rather, the canonically recognized, four Schools of Islamic Law (*Sunnah*), the *ʿIbādāt*,¹² and the *Muʿāmalāt*.¹³

5. ‘Ulamā’ عُلَمَاء (Learned Men)

In Islam, the theologians responsible for the sociopolitical and religious welfare of the Muslim community, the *أمة ummah*,¹⁴ are the *عُلَمَاء ‘ulamā’* (singular: *عالم ālim*), literally “the learned men,” or better yet, “those who possess the *علم ‘ilm*,” i.e., Knowledge:

[...] of things as they are in themselves, a knowledge in which everything is given its proper place because everything is seen in relation to God, and the relations between things are understood on the basis of their relationship to God [5].

Hence, the *‘ulamā’* are the (religious) teachers, or rather, the learned instructors; whereas the *فُقَهَاء fuqahā* are the lawmakers, at the service and for the benefit of the entire Muslim community, once again, the *ummah*.

These scholars and religious learned men alike are in charge of the Divine Law (*Sharīʿah*). Given the complete absence of priesthood and of an accompanying religious hierarchy in Islam, the *‘ulamāh* and *fuqahā* are the custodians, in a sense, of both the secular and religious aspects of the Divine Law (*Sharīʿah*).

Logic, mathematics, metaphysics, and natural science form the *عَقْلِي Aqlī*, or rather, the philosophical and intellectual sciences than can be acquired naturally by all Muslims through the use of instinctive reason and intellect. However, believers cannot learn any of these sciences by themselves, since they entail deep understanding and extensive training.

Conversely, the opposite can be said for the *نَقْلِي Naqlī*, the “transmitted sciences,” which all Muslims can acquire through “transmission” (simply put, teaching/learning), or rather, investigating the original sources, and, as for the religious sciences,

¹² These are the five categories of actions regarding external manifestations of Faith which, by their very nature, are meant to guide the believer’s relationship with God, though only those actions that violate the religious law can be judged, since some actions, though deplorable, but allowed by the religious law, cannot be judged by humans, but by God alone. The five categories of actions are: the *فَرَض fard* or *وَاجِب wājib*, mandatory, for everyone (*فَرَض عَيْن fard ʿain*), as well as for the entire community (*فَرَض كِفَايَة fard kifāyah*); the *مَنْدُوب mandūb*, recommended; the *حَلَال ḥalāl*, *مُبَاهٍ mubāh*, or *جَائِز jāʾiz*, legal or allowed; the *مَكْرُوه makrūh*, deplorable; and the *حَرَام ḥarām*, forbidden.

¹³ These are the laws that govern the relationship among human beings; hence, they can be judged.

¹⁴ Though generally applied to the “Muslim community,” *ummah* is a Qurʾānic term that refers to any group of people and/or to all the (then known) nations of the world. Indeed, in the *Qurʾān* it is stated that, throughout the centuries, God has sent a messenger/prophet to every *ummah* so that it can worship Him accordingly, thus ending its *جَاهِلِيَّة jāhiliyyah*, “state of ignorance,” and corrupt ways. The word “ignorance” is found in the Qurʾān as *jāhiliyyah* (3:154; 5:50; 33:33; and 48:26), as well as *جَاهِل jāhil*, *جَاهِلَة jahalah*, *جَاهِل جَاهِل jāhil*, *جَاهِلِيَّة jāhiliyyah*, and *جَاهِلِيَّة jāhiliyyah* (2:273; 4:17; 6:35; 7:199; 11:46; 12:33; and 39:64). For further information on the theory of *jāhiliyyah*, see: [13].

studying the Divine Revelation (وحي *Wahy*) itself. The *Naqlī* comprise many sources, though their three pillars are the Qur'ān,¹⁵ the *Ahādīth* of the Prophet Muhammad (the *Sunnah*), and *الأصرف* *al-Sarf*, or rather, Grammar, obviously, the grammar of the Arabic language. Indeed, Arabic is the language of the uncreated and eternal Holy Qur'ān, the language of God; hence, there is a necessity to truly understand the exact meaning of all the words which, in its turn, will also help believers appreciate the spiritual, social, and religious messages and signs (آيات *Āyāt*) contained in the sacred text: “[s]ince the grammar of the Arabic language is the grammar of the language which God used in transmitting his final revelation, it was taken to represent formally the structure of what can be said and how it can be said.”[14].

6. Exegesis vs. Eisegesis of Islamic Holy Texts

As **Figure 2** clearly shows, exegesis is solely based on what the text conveys, whereas eisegesis is solely based on what the reader of the text inserts into the text, or rather, it is a personal and most of the time biased interpretation of the (secular and/or sacred) text.

Throughout Islamic history then, Muslim scholars and religious learned men alike have been in charge of the Divine Law (*Shari'ah*). Their deliberations on religious matters, as well as secular issues that intersect with and/or are regulated by religion, require their heuristic interpretations that, in theory, should be based on purely unbiased, exegetical analysis. Alas, most of the time, exegesis transforms itself into eisegesis, or rather, into a personal, biased, and deliberately constructed reading that forces an interpretation that was never intended in the original sacred texts.

Unfortunately, using as a springboard verses from the Qur'ān and the *Ahādīth* of the Prophet Muhammad, these Muslim scholars and religious learned men alike forge a narrative that is historically and contextually erroneous. As mentioned above, the lack of knowledge of the populace when it comes to historical and religious matters allows imams, ayatollahs, muftis, mullahs, *'ulamāh*, and/or *fuqahā'* to emit and perpetuate (anachronous) non-truths so that they can then present them as facts. The “other” who happens not to be liked, who is misunderstood, and/or who is seen as a “threat,” is thus “divinely” punished by the eisegetical and anachronistic interpretation of these learned men.

For instance, while living in دار الإسلام *dār al-Islām* (Muslim soil), the أهل الكتاب *Ahl al-Kitābi* “people of the book” are to be considered ذممي *dhimmi*, i.e., protected, because of their monotheistic faith. The People of the Book include Jews, Christians, Sabians, Zoroastrians, Hindus, Sikhs, Samaritans, and Mandeans [14]. The Qur'ān and the *Ahādīth* of the Prophet Muhammad either mention or allude to their monotheistic religion.¹⁶ Additionally, the term “people of the book” should also be applied to any community during the pre-Islamic era, contemporaneous to the birth of Islam, or who will be met later by Muslims as they brought the word of Allah outside the

¹⁵ تَجْوِيد *Tajwid*, from جَوَد *Jawwada*, literally, to “make things excellent,” is the memorization of the Qur'ān learned at the Qur'ānic school, the مَدْرَسَة *madrasah*. As for the revelation, or rather, the timeframe and content of its chapters, the Qur'ān is divided into four periods, namely: Meccan I (c. 612–615), Meccan II (c. 615–619), Meccan III (c. 619–622), and Medinan (c. 622–632).

¹⁶ See: Qur'ān 2:17, 26, 61; 3:64–80, 98–99, 113–115, 187, 199; 4:47, 153–161; 5:62–63, 68–69, 71–72; 6:20; 9:29; 22:7; 17; [16].

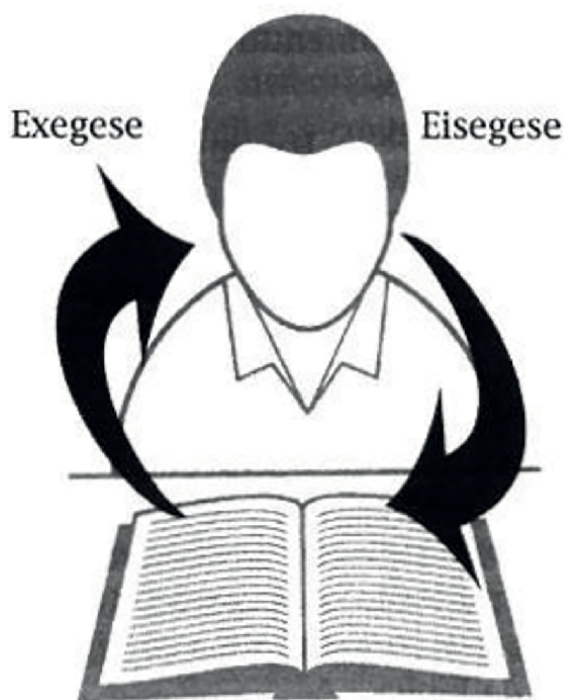


Figure 2.
Exegese Eisegese [15].

Arabian Peninsula, who had monotheistic beliefs and “who base(d) their religion on a holy book, as in the case of the Hindus” [17, 18].

Throughout the centuries, Muslim religious leaders adhered to the law and treated the “people of the book” with respect and, upon payment of the *jizyah* (جزية *dhimmi* tax), granted them full protection [Qur’ān 9:29]. For instance, during the Golden Age of Islam,¹⁷ Jewish communities flourished in the Muslim world, from *al-Andalus* (Muslim Iberia, 711–1492) and the Maghreb to Central Asia, whereby they actively contributed to the economic welfare of the Islamic caliphates while also contributing with significant advancements in the humanities (particularly philosophy) as well as in the physical and biological sciences.¹⁸

Far from being idyllic, the protection enjoyed by the “people of the book” (دِّمَمَة *dhimmah*), particularly Jews and Christians, guaranteed a peaceful coexistence and collaboration among Muslims and monotheistic non-Muslims living in *dār al-Islām*. Understandably and unfortunately, there were and, as of late, there are cases in which imams, ayatollahs, muftis, mullahs, ‘*ulamāh*, and/or *fuqahā*’ performe(d) eisegesis of the holy Islamic texts in order to conveniently penalize, ostracize, and eventually punish the monotheistic “other” (particularly the Jewish community) living in their

¹⁷ Roughly between the 8th–13th centuries of our era, though some scholars also include the Timurid Renaissance (1370–1857), while others propose the end of the 16th century. For further information, see: [19–23].

¹⁸ The physical sciences include Astronomy, Chemistry Physics, and Earth sciences. The biological sciences, instead, include Biology and Medicine. For further information on the Jewish contributions during the Golden Age of Islam, see: [24–27].

midst. Using as a cornerstone verses of the Qur'ān and of the *Ahādīth* of the Prophet Muhammad, taken out of context, these Muslim leaders construct(ed) a narrative that justified/justifies the ill treatment (including death) of and outright discrimination against the (monotheistic) “other.”¹⁹

7. Eisegesis vs. the LGBTQIA+ Community

Barring Jews and Christians, the LGBTQIA+ community is perhaps the group against which—unilaterally acting on behalf of Islam (Sunni as well as Shī'ī) and the entire Muslim community, the *ummah*—Muslim religious men launch their innumerable attacks solely justified by supposedly, unbiased, purely exegetical (sic) analyses of the holy texts so that they can discriminate against, disenfranchise, and, most of the time, severely penalize them while they are living in their midst in *dār al-Islām*.

7.1 What do the Qur'ān and the Ahādīth of the Prophet Muhammad say about LGBTQIA+ matters?

Qur'ān 7:80–84 refers to an episode also found in Genesis 19:1–13, though slightly different, namely: the male messengers (angels) sent by God to لوط (Lūṭ) Lot:

وَلُوطُ إِذْ قَالَ لِقَوْمِهِ أَتَأْتُونَ الْفَاحِشَةَ مَا سَبَقَكُمْ بِهَا مِنْ أَحَدٍ مِّنَ الْعَالَمِينَ
إِنَّكُمْ لَتَأْتُونَ الرِّجَالَ شَهْوَةً مِّنْ دُونِ النِّسَاءِ ۚ بَلْ أَنْتُمْ قَوْمٌ مُّشْرِقُونَ
وَمَا كَانَ جَوَابَ قَوْمِهِ إِلَّا أَنْ قَالُوا أَخْرِجُوهُمْ مِّنْ قَرْيَتِكُمْ ۚ إِنَّهُمْ أَنَاسٌ يَّتَطَهَّرُونَ
فَأَنجَيْنَاهُ وَأَهْلَهُ إِلَّا امْرَأَتَهُ كَانَتْ مِنَ الْغَابِرِينَ
وَأَمْطَرْنَا عَلَيْهِمْ مَطَرًا ۖ فَانظُرْ كَيْفَ كَانَ عَاقِبَةُ الْمُجْرِمِينَ

We also (sent) Lot:

He said to his people:

“Do ye commit lewdness

Such as no people

In creation (ever) committed

Before you?

“For ye practice your lusts

On men in preference

To women: ye are indeed

A people transgressing

Beyond bounds.”

And his people gave

No answer but this:

They said, “Drive them out

Of your city: these are

Indeed men who want

To be clean and pure!”

¹⁹ As for references, positive and negative, to Christians and Jews in the Qur'ān, see: Qur'ān: 2:40-86, 88, 91, 93, 96, 100, 122, 138-140, 246-251; 4:153-161, 171; 5:13-14, 44-45, 67, 73-74, 85; 7:138-141, 161-171; 14:16-17; 17:4-8; 20:80-82; 26:197; 32:23-25; 40:53-54. References, positive and negative, to Christians and Jews in the *Ahādīth* of Prophet Muhammad are extensive. For a complete list, see: [28].

*But we sated him
And his family, except
His wife: she was
Of those lagged behind
And we rained down on them
A shower (of brimstone):
Then see what was the end
Of those who indulged
In sin and crime! [29]*

Elsewhere in the Qurʾān (Qurʾān 54:37), it is also repeated that these lewd men “even sought to snatch away” Lot’s visitors in his house so that they could have sexual intercourse with them. They were male messengers (angels) sent by God who blinded the would-be aggressors who lusted after these men:

وَلَقَدْ رَوَدُّهُ عَنْ صُنَيْفَةٍ فَطَمَسْنَا أَعْيُنَهُمْ فَذُوقُوا عَذَابِي وَنُذِرِ

*And they even sought
To snatch away his guests
From him, but We blinded
Their eyes. (They heard:)
“Now taste ye My Wrath
And My Warning” [29]²⁰*

Quite a few Jewish, Christian, and Muslim scholars, among others hailing from several religious denominations and regions of the world, commented on these passages, some in support of, some against God’s condemnation of homosexuality, while others placed the episode into a (purely) historical context, thus concentrating on the fact that most likely lusting after these male messengers was a way of disregarding and disrespecting Lot’s leadership and not a homosexual desire per se since the modern concepts of sexual orientation and identity were nonexistent at this time [30, 31]. Similar approaches have been made for references to same-sex relations in the Old and New Testament which, as those found in the Qurʾān, could be referring or alluding to something else rather than a strict condemnation of homosexuality; yet, not all scholars share the same point of view [32–35].

In the *Ahādīth* of the Prophet Muhammad, references to homosexuality are explicit and they refer to sodomy as well as slander for accusing someone of being homosexual, as in this case:

حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ إِسْرَاهِيمَ، حَدَّثَنَا ابْنُ أَبِي قُدَيْكٍ، حَدَّثَنِي ابْنُ أَبِي حَبِيبَةَ، عَنْ دَاوُدَ
حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ إِسْرَاهِيمَ، حَدَّثَنَا ابْنُ أَبِي قُدَيْكٍ، حَدَّثَنِي ابْنُ أَبِي حَبِيبَةَ، عَنْ دَاوُدَ
الرُّجُلِ لِلرُّجُلِ يَا مُحَنَّتُ فَاجْلِدُوهُ عَشْرِينَ وَإِذَا قَالَ الرَّجُلُ لِلرُّجُلِ يَا لُوطِي فَاجْلِدُوهُ عَشْرِينَ

If one man says another: “O effeminate one!, give him twenty lashes. And if one man says to another: “O homosexual!, give him twenty twenty lashes” [36].

Also in this case, witnesses are needed in order to substantiate the veracity of such alleged acts and, consequently, punish the culprits or transgressors, if you will:

²⁰ Qurʾān 54:37. Other references to this episode can be found in Qurʾān 11:77-83; 21:74; 22:43; 26:165-175; 27:56-59. 29:27-33.

وَعَنْ إِبْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: (مَنْ وَجَدْتُمُوهُ يَعْمَلُ عَمَلُ قَوْمِ لُوطٍ، فَاقْتُلُوا الْفَاعِلَ وَالْمَفْعُولَ بِهِ، وَمَنْ وَجَدْتُمُوهُ وَقَعَ عَلَى بَيْمَةٍ، فَاقْتُلُوهُ وَرَجَالَهُ مُوثَّقُونَ، إِلَّا أَنْ فِيهِ إِخْلَافًا وَاقْتُلُوا الْبَيْمَةَ) {رواه أحمد والأربعة}

Ibn Abbas (RAA) narrated that the Messenger of Allah (PBUH) said, "Whoever you find doing as the people of Lot did (i.e., homosexuality), ill the one who does it and the one to whom it is done, and if you find anyone having sexual intercourse with animal, kill him and kill the animal." Related by Ahmad and the four Imams with a trustworthy chain of narrators [37].

In the situation below, found in Qur'an 4:15, if women commit lewd acts, they have to be punished; yet, four (male)²¹ witnesses are needed in order to corroborate the veracity of the accusation and then proceed with the punishment:

وَالَّتِي يَأْتِيَنِ الْفَاحِشَةَ مِنْ نِسَائِكُمْ فَاسْتَشْهَدُوا عَلَيْهِنَّ أَرْبَعَةً مِنْكُمْ فَإِنْ شَهِدُوا فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ حَتَّى يَتَوَقَّعَهُنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ لَهُنَّ سَبِيلًا

*If any of your women
Are guilty of lewdness
Take their evidence of four
(Reliable) witnesses from amongst you
Against them: and if they testify,
Confine them to houses until
Death do claim them,
Or God ordain for them.
Some (other) way [29].*

Conversely, as attested in Qur'an 4:16, if two men commit lewd acts, they also have to be punished, provided that four (male) witnesses can testify as to the truthfulness of the alleged accusation:

وَالَّذَانِ يَأْتِيَانِيَا مِنْكُمْ فَإِذَا دُومَهُمَا فَلْيَكِلَاهُمَا فَإِنْ تَابَا وَأَصْلَحَا فَأَعْرِضُوا عَنْهُمَا إِنَّ اللَّهَ كَانَ تَوَّابًا رَحِيمًا.

*If two men among you
Are guilty of lewdness,
Punish them both.
If they repent and amend,
Leave them alone; for God
Is Oft-returning. Most Merciful [29].*

Additionally and more importantly, though, the Qur'an also mentions that, should they repent, these two men are to be left alone since only God can judge human beings and, most importantly, God is forgiving and merciful. In other words, the Qur'an implies that, in the absence of proof (i.e., four male witnesses), human beings are not in a position to judge other human beings.

As we can see then, the Qur'an does not really state in detail the punishment of homosexual acts. As for the *Ahādīth* of the Prophet Muhammad, besides the passages

²¹ The witness of a woman counts as half of that of a man; hence, two women who witnessed something count as one man witnessing something. See: [38].

mentioned above, there are some verses that address female and male homosexuality, as in the case of the *hadīth* below reported by بن أحمد بن أيوب بن مطير اللخمي الشامي الطبراني أبو القاسم سليمان Abū al-Qāsim Sulaymān ibn Aḥmad ibn Ayyūb ibn Muṭayyir al-Lahmī al-Shāmī al-Ṭabarānī (874–971), a Sunni jurist and scholar, of the Sunni Hanbali law school, renowned for his multi-volume edition of the *Aḥādīth* of the Prophet Muhammad who, in his turn, quoted from أبو موس الشّعري Abū Musā al-Ashʿarī (602-c. 662/c. 672), one of the companions of Prophet Muhammad; hence, his source is (presumably) very trustworthy:

From أبو موس الشّعري Abū Musā al-Ashʿarī, the Prophet states that: “If a woman comes upon a woman, they are both adulteresses, if a man comes upon a man, then they are both adulterers.”²²

It is clear that the emphasis here is on adultery, not on the gender and/or the sexual orientation of the offenders. The four Muslim scholars whose names are used to denominate each of the four Sunni Law Schools (مذاهب *madhāhib*)²³ all had different opinions on male homosexuality, ranging from the most lenient (حنبلي Hanbalī) to the most draconian (مالكي Mālikī) punishment for those who acted upon their lustful feelings towards the same sex, particularly (young) men [38, 45].

Muhammad’s close friend, son-in-law, and third caliph (r. 644–656) of the first four caliphs that ruled after the death of Prophet Muhammad (الخلفاء الراشدون *Khulafāʾ al-Rashidūn*, the Rightly Guided Caliphs, 632–661), عُثمان بن عفان ‘Uthmān bin ‘Affān (c. 573–656), stated that:

عَنْ عُثْمَانَ بْنِ صَالِحٍ عَنِ الْحَسَنِ بْنِ ذَكْوَانَ رَحِمَهُ اللَّهُ قَالَ لَا تُجَالِسُوا أَوْلَادَ الْأَغْنِيَاءِ فَإِنَّ لَهُمْ صُورًا كَصُورِ النِّسَاءِ وَهُمْ أَشَدُّ فِتْنَةً مِنَ الْعَذَارَى

Al-Hasan ibn Dhakwan, may Allah have mercy on him, said, “Do not sit with young boy singers, for their appearance is like that of women. They are an even greater temptation than young virgin girls” [46, 47].

This *hadīth* acknowledges that (supposedly) heterosexual adult men found young boys/men very attractive; hence, it is implying that at this time it was a known fact and that it was (very) common for adult men to find young boys/men attractive. Moreover, it implies that adult men (usually) succumbed to the temptation and indeed had intimate contacts with young boys/men, or else there would not have been

²² English translation available at: https://en.wikipedia.org/wiki/LGBT_people_and_Islam. For the Urdu original text, see: [23]. For the Arabic original, see: [39, 40].

²³ “There are four main Sunni Muslim schools of thought, مذاهب *madhāhib*, singular مذهب *madhhab*. The Arabic meaning of *madhhab* is not “school” per se, but rather “creed, doctrine, and ideological denomination” and, by extension, “movement.” However, within Sunni jurisprudence, *madhhab* stands for any of the four, canonically recognized law schools, namely, the Hanafī, the Hanbalī, the Mālikī, and the Shāfiʿī, all named after their founders even if it was only their students/disciples and followers who actually either founded the school or kept the tradition of its founder alive, thus resuming where it was left at the death of their leader. On the other hand, most Shiite Muslims follow the Jaʿfarī school of thought, from Jaʿfar al-Sādiq (702–765)” [41–44]. There was a fifth Sunni Muslim school of thought, ظاهري *Zāhirī*, that eventually merged with the Hanbali school. Yet, as of the middle of the 20th century, the *Zāhirī* school has resurfaced in many parts of the Islamic world. Hence, some say that there are five *Madhāhab*. Perhaps my solution “four plus one” better fits the reality of the Sunni Muslim schools of thought.

a need to utter this statement/prohibition. Needless to say, interesting parallels can be drawn from the Greek tradition, among many other ancient cultures in Europe, the Middle East, and other parts of the world, whereby adult/older men enjoyed the presence of (very) young lads [48, 49].²⁴ Additionally, this *ḥadīth* reinforces what is stated in Qur'ān 24:30, namely:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ۚ ذَٰلِكَ أَزْكَىٰ لَهُمْ ۚ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ

Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them: and God is well acquainted with all that they do [29].

The “gaze” here refers to staring at anyone, women and/or men. Abdullah Yusuf Ali (1872–1953), one of the finest English language translators, commentators, and exegetes of the Qur'ān, utilized the word “modesty” since a “brazen stare by a man at a woman (or even at a man) is a breach of refined manners.” For Abdullah Yusuf Ali, when it comes to sex, men, allegedly “the stronger sex,” are indeed the “weakest sex” when it comes to refraining from acting upon their lustful, sexual desires. Hence, “modesty” was the key to guarding “the spiritual good of the stronger sex” [29].

Once again, the emphasis was on behavior, not sexual orientation/identity per se since, at this time in European and Middle Eastern history, the sexual orientation/identity of the offender(s) was not an issue simply because there was no concept of sexual orientation and/or sexual identity, regardless of how they might have felt inwardly. Indeed, gay, lesbian, bisexual, and transgender people at this time did not have the opportunity to explore and negotiate their identity and sexual role within their own society [51, 52].

The ultimate intention (نِيَّة *niyyah*) is thus the key. Indeed, it appears that God understands that human beings have feelings. Yet, they should refrain from putting them into action. This is what some scholars believe is the meaning of some *Aḥādīth* of the Prophet Muhammad, whereby same-sex attractions among men were allowed because they were considered “natural,” lest men took action and succumbed to their lustful wishes [53–55].

Undeniably, in a number of *Aḥādīth* Prophet Muhammad appears to acknowledge this “natural” attraction; yet, he advises not to fall into temptation and then act upon it. Hence, his best advice was to not look at young boys/men in the first place. In other words, he was advocating for avoidance:

Do not gaze at the beardless youths, for verily they have eyes more tempting that the houris [56, 57].

Islamic scholar إسماعيل العجلوني Ismā'īl al-'Ajlūnī (1676–1749), hailing from present-day Syria, in his famous كتاب: كشف الخفاء ومزيل الإلباس عما اشتهر من الأحاديث على ألسنة الناس (Unveiling the Hidden Truth and Removing the Confusion about the *Aḥādīth* that are Widespread upon the Tongues of the People), lists in alphabetical order *Aḥādīth* that have been attributed to Prophet Muhammad, most of them erroneously, including *ḥadīth* number 2997:

2997 لا تنظروا إلى المردان فإن فيهم لمحة من الحور

²⁴ For information on transgender in the Ancient Mediterranean, see: [50].

Do not glaze at beardless young boys, for they have the glimpse of the houris [intense white and black] [58, 59].

Another *ḥadīth* also warns against staring at young men, despite the ultimate intention (*niyyah*) since, no matter what, the end result would be the same, i.e., lust and/or lascivious behavior winning over restraint:

قال ابن تيمية والنظر إلى وجه الأمر لشهوة كالنظر إلى وجه ذوات المحارم والمرأة الأجنبية بالشهوة سواء كانت الشهوة شهوة الوطء أو شهوة التلذذ بالنظر

Ibn Taymiyyah said, “Looking at the face of a beardless youth with passion is like looking at the face of a forbidden or an unrelated woman with passion, whether it is done with the passion of intercourse or the passion of arousal” [46].

Certainly, as renowned Islamic scholar Pinhas Ben Nahum stated, Prophet Muhammad saw homosexuality “with philosophic indifference.” This is because the punishment was “not indicated—it was probably some public reproach or insult of a slight nature—but mere penitence sufficed to escape the punishment” [60].

7.2 Female and male homoeroticism, same-sex attraction, lust vs. homosexuality, sexual orientation, and sexual identity

Indeed, it would be anachronistic to state that sexual orientation played a role in the condemnation and prohibition of homosexuality (male and female) since at this time in European and Middle Eastern history (pre-Islamic era through the end of the 18th century) the issue was the age and/or the position of power that one person had over the person with whom he or she was being sexually intimate, not their sexual orientation and/or identity.²⁵ In the case of men, as it often was, it was a matter of power, or rather: the (allegedly masculine, sic) adult man taking advantage of and acting upon his lustful feelings for the (assumed weaker and effeminate) boy/(very) young man.

Once again, the attraction was conceived in terms of lust, sexual prowess, power, and dominance; it was not associated with one’s sexual orientation and/or identity. In Ancient Greek, *μαλακοὶ malakoi* was the word used to denote the (perceived) effeminate/soft/weak boy or young man. In the pre-Islamic Arabian Peninsula, the term *مُخَنَّثُونَ mukhannathūn* (the effeminates; singular: *مُخَنَّث mukhannath*, from the first and fifth Arabic verb forms *خَنَثَ khanitha* and *تَخَنَّث takhannatha* respectively) [62], denoted men who were perceived as being, or who indeed were, effeminate, who looked like women, whose sexual features were ambiguous, including being bisexual, and/or who often-times assumed the sexual role of women [63–66]. *تَكْسُر Takassur* (broken, from the fifth Arabic verb form *تَكَسَّر takassara* and *تَثَنَّى tathannī* (bent, wobbly, from the fifth Arabic verb form *تَثَنَّى tathannī* [62]) were the euphemisms for a *mukhannath*. In general, the term *mukhannathūn* was used when referring to men associated with dance, music, and/or entertainment (e.g., comedians) [65, 67].

²⁵ Pre-Columbian and pre-Cabraline Americas, as well as pre-Islamic and pre-1500 European contact Africa, Asia, and Oceania enjoyed “a more tolerant and, at times, even encouraging attitude towards the role of women, gays/lesbians, androgynous, cross-dressers, and transgendered people, assigning to all of them specific roles so that they could participate in and, most of all, contribute to the welfare of the entire nation” [61].

Figure 3 clearly shows the more than friendly farewell kiss between أبو زيد *Abū-Zayd* and الحارث *al-Hārith*, also known as الحريري *al-Ḥarīrī* (the silk merchant) of Basra (1054–1122). *Al-Ḥarīrī* was a very famous poet, scholar, and government official working for the Seljuk Empire (1037–1194).

Indeed, contrary to the current discourse against the LGBTQIA+ community in the Islamic world, in pre-Islamic times and for many centuries during the ensuing dynasties that reigned, at some time or another, from the Iberian Peninsula, the Maghreb, and West Africa to the Middle East, East Africa, Central Asia, and the Indian Subcontinent from the death of Prophet Muhammad (632) to the end of the Abbasid Caliphate (750–158, 1261–1517), actors, musicians, and singers were referred to as (i.) *mukhannathūn*, (ii.) ميممه *mīmah*, from the first and fourth Arabic verb forms واما *wamāah* and أوما *awmāh*, to gesticulate, (iii.) مُحَاكِي *muḥākī*, from the third Arabic verb form حَاكَى *ḥākkāh*, he who imitates, and/or (iv.) مُضْحِك *muḍḥik* (an adjectival form denoting he who performs comedy or a buffoon, from the tenth Arabic verb form اسْتَضْحَكَ *istaḍḥaka*, to induce someone to laughter [62]):

In Thesaurus Syriacus the Greek term mimos is given in Syriac according to Ibn Bahlūl (c.963 CE) as mīmas and mīmsā with their Arabic meaning as al-mukhannath almuḥākī al-maskharī (the imitating comedian mimic), as well as mukhannath, muḥākī, almuḍḥik (mime, imitator, comedian), a clear indication that the term mukhannath also became an established term for comic actors [67].

As time went by, though, the term *mukhannathūn* denoted passive men in a man-to-man relationship. In the Arabian Peninsula, the word *mukhannath* was and is still used interchangeably with the term خَنِيث *khanīth*—from the fifth Arabic verb form تَخَنَّثَ *takhannatha* with the meaning of behaving in an effeminate way, being effeminate, or becoming effeminate—i.e., an effeminate man who often faints; hence it also



Figure 3.
*Ms Ar 3929, f.122. Farewells of أبو زيد *Abū-Zayd* and الحارث *al-Hārith* before the return to Mecca [68].*

connotes the idea of being impotent and/or weak [62]. As of late, despite its negative connotations, the word has been reclaimed by some members of the LGBTQIA+ who now use *khanīth* (also transliterated as *Xanīth*) to self identify themselves as trans-sexual men and women [69].

Let us look at the some verses from Qurʾān 24:31, whereby it is stated:

أَوْ نِسَائِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ أَوْ التَّبِيعِينَ غَيْرِ أُولَى الْإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطُّفُلِ الَّذِينَ لَمْ يَنْظُرُوا عَلَى غَوْرٍ

*Or their women, or their slaves
Whom their right hands
Possess, or male servants
Free of physical needs,
Or small children who
Have no sense of the shame
Of sex [...] [29].*

Qurʾān 24:31 is about teaching rules of conduct (modesty) for Muslim women. As we can see, there is a specific mention to *أُولَى الْإِرْبَةِ مِنَ الرِّجَالِ* “male servants free of physical needs [of women].” Hence, we are dealing with either asexual or homosexual men. There is no condemnation for their natural desire or lack of interest in women. As Dr. Scott Siraj al-Haqq Kugle keenly suggests:

[t]hese “men who are not in need of women” might have been gay or asexual, but by definition they were not heterosexual men. They are not judged or condemned anywhere in the Qurʾan [70].

Even if Prophet Muhammad never mentioned the *mukhannathūn*, he did allow *هَيْت* Hīt (or, according to some scholars, *هَنْب* Hinb), a *mukhannath*, to frequent the harem (women’s quarters). Prophet Muhammad later expelled Hīt because he told a (straight) man all about the attributes of a woman’s body: “go after Ghaylān’s daughter; for she comes forward with four and goes away with eight!”²⁶ Hence, Hīt was banished from the harem not for being a *mukhannath*, but rather, for describing the physical parts of a woman; hence, for having made *كَلِمَةً فَاحِشًا* *kalima fāḥisha*, i.e., an “obscene remark” [65, 66]. Prophet Muhammad’s tacit acceptance of a *mukhannath* in his midst is a clear indication that he thought nothing about it, or rather, that he had no problem being surrounded by an effeminate man.

The heart of the matter, then, was *زِنَا* *zinā*, or rather, prohibited pre- and extra-marital intimate contact (fornication) with physical penetration (*اِحْتِرَاقٍ* *ihtirāq*)—including *لِوَاطٍ* *liwāṭ*, sodomy—not sexual orientation and/or identity, though, as mentioned above, the four Sunni Law Schools were not in accord as to the type of punishment to be bestowed upon the “transgressors.” Indeed, non-intercourse activities/transgressions, where penetration did not occur, were considered either *مَكْرُوه* *makhrūh* (borderline sinful/reproachable) or a minor offense; hence, it was all in the hands of the exegete. For some exegetes, female same-sex intimacy, *سِحَاقٍ* *siḥāq*, was not considered *zinā* since there is no physical penetration; therefore, it did not fall

²⁶ Four here refers to her “belly wrinkles (‘ukan), four in front, whose ends can be seen wrapping around on the two sides of her back when she walks away, thus appearing to be eight” [65].

within *Shari'ah*'s حُدُود *hudūd* category (religious punishment) which range from public lashing and crucifixion to amputation of hands/feet and/or stoning.²⁷

Hence, according to some scholars, Muslim as well as well non-Muslims, in order to prevent sin or, better yet, to prevent men from falling victims of their own libido, the prohibition to gaze at young boys (and women) came to be (**Figure 4**) [55].

Absence of references to same-sex attraction and intimacy among women in the Qur'an is not proof that it was unheard of in pre-Islamic times as well as during 7th -19th century Islam [75, 76]. Indeed, there are numerous references in Islamic literature, including the *One Thousand and One Nights*, to same-sex attractions, temporary relations (euphemistically called "situational homosexuality"), and same-sex encounters among women whereby women choose other women to love, to please, and to be pleased.



Figure 4.
Amorous (female) couple [74].

²⁷ For additional information, see: [38, 45, 71–73].

The arts, including poetry, the secluded world of the *حَرَام* *harām* (harem) and of the *سرای* (*sarāy*, seraglio) of the Ottoman Empire (c. 1299–1922), offered plenty of opportunities for women to express and act out these feelings and behaviors towards other women, from what we would call today homosexual feelings to *de facto* life choices due to the physical lack of male companions. Indeed, as a late 19th-century translator of the *One Thousand and One Nights* stated, harems: “are hot-beds of Sapphism and tribadism. Every woman past her first youth has a girl who she calls “Myrtle”” [77, 78].

Similar to their male counterparts, homosexual women (lesbians, *سُحَاقِيَّات* *suḥāqiyyāt*) kept silent about their feelings and actions because of taboos and of the unspoken but ever-present decorum (i.e., their role as daughters, future child bearers, and mothers) [49, 79]. For men, instead, the decorum translated itself into shame of being penetrated and dominated, thus being seen as the ones playing the role of the “weaker sex” (sic).

Gleaning from the Islamic holy texts and historical documents it appears that, as mentioned above, Prophet Muhammad acknowledged the attractiveness of younger men. Yet, he advised not to fall into temptation. According to some Islamic scholars, including *عُمَرُ بْنُ عَلِيٍّ الْقَارِضُ* ‘Umar ibn ‘Alī al-Fārid (1181–1234), a renowned Arab mystic poet, Prophet Muhammad had deep feelings for another man, *مُعَاذُ بْنُ جَبَل* Mu‘ādh ibn Jabal (605–639), one of his early and faithful companions [80].

Alas, throughout the centuries, eisegeses of passages extrapolated from the Qur’ān and the *Aḥādīth* of the Prophet Muhammad performed by Islamic scholars have served as a means to perpetuate biases and, consequently, justify physical chastisement in the name of God against members of the LGBTQIA+ community. The type of punishment for the transgression was based on how the Muslim scholar interpreted the law. In other words, eisegesis, and not exegesis, was the norm when it came to perform a willfully biased heuristic approach to a holy text and extrapolate a final, prejudiced legal ruling, i.e., a *fatwā* *فتوى*, against members of the LGBTQIA+ community living in *dār al-Islām*.

8. Human rights violations vs. the LGBTQIA+ community in the middle East and surrounding areas

Table 1 herewith reproduced depicts the current (as of June 2023) situation in the Middle East and surrounding areas where LGBTQIA+ rights are severely repressed (death penalty, imprisonment, fines, and/or whipping) vs. where same-sex activities are considered legal [81]. Some countries/areas of the Muslim world or where parts of their population are composed of Muslims appear in more than one category, since the penalty might depend on the circumstances (represented in the chart with an asterisk *). Additionally, in Bahrain, Iraq, Jordan, Lebanon, Northern Cyprus, and Turkey, notwithstanding the fact that same-sex relations are legal, there are many instances in which subterfuges are used in order to penalize members of the LGBTQIA+ community, as in the case of (i) “indecentcy” and “immorality” laws (sic) in Bahrain, (ii) “disrupting public morality” (sic) in Jordan; (iii) Article 534 of the Lebanese Penal Code in Lebanon; (iv) indiscriminate arrests in Northern Cyprus; (v) Iraq [82]; and (vi) Turkey where members of the LGBTQIA+ community do not enjoy protection guaranteed by law [83–85]. Indeed, Article 534 of the Lebanese Penal Code forbids sexual relations that “contradict the laws of nature” [86]. In most cases, there are arrests and even degrading physical examinations to determine if a man has had anal intercourse. In all these countries and areas of the world where Islam is the major religion, human rights violations against

Death penalty on consensual, same-sex sexual acts	Death penalty (not enforced)	Same-sex activities: Imprisonment, fines, and/or whipping	Same-sex activities legal
Afghanistan	Mauritania*	Aceh, Indonesia	Bahrain*
Bauchi, Nigeria	Saudi Arabia*	Algeria	Cyprus
Brunei*	Somalia (Jubaland)	Bangladesh	Iraq*
Gaza Strip*	United Arab Emirates*	Brunei*	Israel
Iran		Cameroon	Jordan*
Mauritania*		Chad	Lebanon*
Myanmar		Chechnya, Russia	Northern Cyprus
Qatar		Comoros	Turkey
Saudi Arabia*		Egypt*	West Bank
Uganda		Eritrea	
United Arab Emirates*		Ethiopia	
Yemen*		Kenya	
		Gambia	
		Gaza Strip*	
		Ghana	
		Guinea	
		Lebanon*	
		Liberia	
		Libya	
		Kuwait	
		Malaysia	
		Mauritius	
		Morocco	
		Nigeria	
		Oman	
		Qatar	
		Pakistan	
		Sahrawi Arab Democratic Republic	
		Saudi Arabia	
		Senegal	
		Sierra Leone	
		South Sudan	
		Sri Lanka	
		Sudan	
		Syria	

Death penalty on consensual, same-sex sexual acts	Death penalty (not enforced)	Same-sex activities: Imprisonment, fines, and/or whipping	Same-sex activities legal
		Tanzania	
		Togo	
		Tunisia	
		Turkmenistan	
		United Arab Emirates*	
		Uzbekistan	
		Yemen	

Table composed by the author.

Table 1.

The current situation in the middle East and surrounding areas where LGBTQIA+ rights are severely repressed vs. where same-sex activities are considered legal.

members of the LGBTQIA+ community are constant. Even if most of the times the anti-LGBTQIA+ laws are not enforced, as in the case of the death sentence, the fact that these laws are in force poses a constant threat to the physical and mental integrity of the LGBTQIA+ community living in these countries/areas of the Islamic world and surrounding areas. This table also highlights the fact that there is no unifying pattern when it comes to criminalizing same-sex activities, let alone same-sex unions based on love. While biased eisegeses of holy texts are responsible for most of these laws, negative attitudes towards, and discrimination against members of the LGBTQIA+ community, the colonial legacy of strict laws against same-sex activities and homosexuality also contributed to the present state of repression and abuse. Anglophone and Francophone countries in the Maghreb, West and East Africa, the Middle East, and surrounding areas all share the repercussions of having had strict laws against homosexuality implemented during the colonial rule but that later were abolished in the respective metropolises: e.g., the British anti-sodomy law²⁸ and the 1810, French Penal Code criminalizing homosexuality. For instance, even if article 330–340 of the 1810, French Penal Code did not contemplate sodomy, in Egypt (not a Francophone country), Lebanon, and Tunisia, sodomy was included along with adultery, indecent exposure, polygamy, and rape. The quote below best describes the irony of it all:

It appears as though Muslim (and Hindu) conservatives, without knowing it, are actually copying the Victorian mores of 19th century colonialism, while ignoring their own history. This at a time when even Western European cultures have pulled up their socks and gone on to ensure that human rights are available to their people irrespective of random externalities such as the gender they happen to be attracted to [88].

As for transgender rights, the decision usually rests either with the State and/or the religious leaders on whether to allow them to live as their chosen sexual identity or to

²⁸ The Buggery Act 1533, also known as *An Acte for the Punishment of the Vice of Buggerie* (25 Hen. 8 c. 6), was a law promulgated during the reign of Henry VIII (r. 1509–1547) [87].

punish them for feeling and wanting to live a life as the opposite sex (gender expression). In other words, transgender people have only one choice, or rather, they are forced to undergo hormone and surgical treatment, usually accompanied by sterilization, in order to be gender reassigned. Islamic scholars who admit and recommend gender reassignment justify it under the medical (sic) category of “psychological hermaphroditism.” Indeed, according to these scholars, transgender people are human beings who were born transgender; hence, through surgical correction, they can be gender reassigned (Iran, Lebanon, and Turkey).²⁹ Any other form of sex change would be against God’s will as expressed in Qur’ān 4:119, whereby it said that the devil misleads humans and creates false desires:

وَلَا ضَلَالَتُهُمْ وَلَمُتْنُهُمْ وَلَكَاْمُهُمْ فَلْيَبْشُرُوا إِذَآ أَن لَّاتُكُمُ وَلَكَاْمُهُمْ فَلْيَغْيِرُوا خَلْقَ اللَّهِ ۚ وَمَن يَخْدِ الشَّيْطٰنَ
وَلْيَا مَن دُونِ اللَّهِ فَقَدْ خَسِرَ خُسْرٰنًا مُّبِينًا

“I will mislead them,
And I will create
In them false desires; I will
Order them to slit the ears
Of cattle, and to deface
The (fair) nature created
By God.” Whoever,
Forsaking God, takes Satan
For a friend, hath
Of a surety suffered
A loss that is manifest [29].

Eisegeses of Qur’ān 4:119 have been used widely in the Islamic world to condemn sex reassignments based on the transsexual’s desire to undergo gender reassignment. Homosexuality, instead, is seen as *ḥarām* (prohibited), i.e., a sin; hence, homosexuals have to be punished (sic).

9. Conclusion

The data analyzed in my research and herewith presented clearly show that there is indeed a disconnect between historical facts—i.e., evidence that supports without a shadow of doubt that also in Islam themes that we, today, would put, for lack of a better term, under the all-encompassing LGBTQIA+ category—and hermeneutics of holy texts conveniently construed to fit the homophobic discourse of Muslim religious leaders [92]. Indeed, their eisegeses of the Qur’ān and the *Aḥadīth* of the Prophet Muhammad are willfully and maliciously construed to discriminate against their fellow believers and, ultimately, annihilate their humanity, emotionally as well as physically. Hence, it is no surprise that the next step is committing blatant human rights violations against members of the LGBTQIA+ community on a daily basis. As we have seen, Shari’a Law is more than faith. Shari’a Law is an unbiased interpretation of the word of God, either directly or indirectly.

²⁹ These assumptions are based on the status of the *khunthā* (hermaphrodite), also known as *mushkil* (dubious, uncertain) in Islamic Law. For further information, see: [38, 63, 66, 89–91].

Even if the (modern) concepts of homosexuality, gender identity, and sexual orientation, later coupled with the idea of belonging to a local, national, and international LGBTQIA+ community that demanded to be heard, respected, and accepted by society (their own and global) only began to exist at the end of 19th century,³⁰ in the Muslim world, as well as elsewhere, there have always been ways of manifesting one's desires when it comes to intimacy with and love for someone of the same sex. In other words, despite the fact that these concepts were not verbalized for lack of awareness of their very existence, members of what later would be known as the LGBTQIA+ community still lived sexual identity and expressed their feelings covertly or overtly as constituents of their respective societies.

Oral traditions and written texts, particularly poetry and dramas, testify to the presence of members of the LGBTQIA+ community and, generally, their recognition and inclusion since they fulfilled a specific role within their respective society. Pre-Colombian and pre-Cabraline American cultures, Chinese, Japanese, African, Middle Eastern (as in the case of pre-Islamic Iran and Mesopotamia), Indian, Southeast Asian, and Pacific civilizations—though to different degrees and subject to specific circumstances—welcomed members of the LGBTQIA+ community.

In the Middle East, the advent of Judaism, Christianity, and particularly Islam changed the equation when it came to acceptance of the “other” in their midst; yet, there is overwhelming evidence of approval, implicit or explicit, of same-sex feelings, love, homoerotic, and/or homosexual behaviors that later were vehemently condemned.

As for Islam, the exegete had and has all the power to perform eisegesis as a way of punishing and ostracizing members of the LGBTQIA+ community despite the fact that, as I have shown, there is abundant evidence of the existence of covert and overt approval of female and male homoeroticism and same-sex attraction (and even love!) that has gone uninterrupted from pre-Islamic times to the present.

Members of the LGBTQIA+ community and allies from *dār al-Islām* as well as elsewhere in the world have to urge for biased-free hermeneutics in order to reconcile Shari‘a law and the “modern concepts” of expressing one's sexual orientation and identification. Impartial exegeses vs. partial eisegeses are the answer to finally curtail and eventually annihilate human rights violations against members of the LGBTQIA+ community living in predominantly Muslim countries and areas of the world.

³⁰ The poem “Two Loves” by Lord Alfred “Boise” Douglas (1870–1945), published in the magazine *The Chameleon* (December 1894), and the 1897 founding of the *Wissenschaftlich-humanitäres Komitee*, WhK (Scientific-Humanitarian Committee) in Berlin are considered by many as being the two episodes that spearheaded the modern LGBTQIA+ movements worldwide.

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References

- [1] Hjejj, Mohamad, and Arnis Vilks. A Brief History of Heuristics: How Did Research on Heuristics Evolve? Humanities & Social Sciences Communications 10.64 (2023). 10.1057/s41599-023-01542-z [Accessed: 19 June 2023]
- [2] Levi JA. “Religion and thought in Brazil,” in Brazil. Eds. Antônio Luciano de Andrade Tosta, and Eduardo F. Coutinho. Santa Barbara, CA: ABC-CLIO, 2016. 97-120.
- [3] Esposito JL, editor. The Oxford Encyclopedia of the Islamic World. Vol. 6 vols. Oxford: Oxford University Press; 2009
- [4] Stroumsa GG. The Making of the Abrahamic Religions in Late Antiquity. Oxford: Oxford University Press; 2015
- [5] Lombard JEB, editor. The Decline of Knowledge and the Rise of Ideology in the Modern Islamic World. In: Islam, Fundamentalism, and the Betrayal of Tradition. Essays by Western Muslim Scholars. Bloomington, IN: World Wisdom; 2004
- [6] al-Qushayrī, Muslim ibn al-Hajjāj. Kitāb ṣaḥīḥ al-imām al-Ḥāfiẓ Abī al-Ḥusayn Muslim. 6, 1909
- [7] Dien MI. Islamic Law: From Historical Foundations to Contemporary Practice. Notre Dame: University of Notre Dame Press; 2004
- [8] Hallaq WB. Sharīʿa: Theory, Practice, Transformations. Cambridge: Cambridge University Press; 2010
- [9] Powell EJ. Islamic Law and International Law. Peaceful Resolution of Disputes. Oxford: Oxford University Press; 2020
- [10] Khān, Muhammad Muhsin, trans. Summarized Sahih Al-Bukhari: Arabic-English. Riyadh: Dar-us-Salam Publications, 1994.
- [11] Nasr SH. Islam and Science. In: Clayton P, Simpson Z, editors. The Oxford Handbook of Religion and Science. Oxford: Oxford University Press; 2006. pp. 71-86
- [12] Levi JA. Inferno, Canto XXVIII: 30-31. The Prophet Muhammad and the Caliph ‘Alī: (Mis)Representing the Body. International Journal of Arts and Social Science. 2022;5(6):98-132
- [13] Khatab S. The Political Thought of Sayyid Qutb: The Theory of Jahiliyyah. London: Routledge; 2006
- [14] Leaman O. A Brief Introduction to Islamic Philosophy. Cambridge: Polity Press; 1999
- [15] Brito I. O que é Exegese e Eisegese. *Aqui eu Aprendi!* 2015<https://aquieuprendi.blogspot.com/2015/02/o-que-e-exegese-e-eisegese.html> Accessed: 19 July 2023]
- [16] 44. The People of the Book. Sunnah. com. Available from: <https://sunnah.com/adab/44> [Accessed: 19 June 2023]
- [17] Levi JA. Reconstructing the Abrogated. Exegesis of Qurʾān 53: 21-22. International Journal of Arts and Social Science. 2021;4(2):6-23
- [18] Levi JA. Beyond Invasion: The *Bāb* باب in the *ṣāḥ*, *Dār*, or rather, the Door in the Land. Islam as the Door to the Portuguese Age of Discoveries. International Journal of Arts and Social Science. 2020;3 4:403-430
- [19] Dale SF. The Legacy of the Timurids. Journal of the Royal Asiatic Society. 2009;8(1):43-58

- [20] George LS. *The Golden Age of Islam*. New York: Benchmark Books; 1998
- [21] Lapidus IM. *A History of Islamic Societies*. Cambridge: Cambridge University Press; 2014
- [22] Lombard M. *The Golden Age of Islam*. Amsterdam: Elsevier; 1975
- [23] Meri JW, editor. *Medieval Islamic Civilization: An Encyclopedia*. Vol. 2 vols. New York: Routledge; 2006
- [24] Gilbert M. In *Ishmael's House: A History of Jews in Muslim Lands*. New Haven: Yale University Press; 2010
- [25] Lewis B. *The Jews of Islam*. Princeton: Princeton University Press; 1984
- [26] Stillman NA. *Encyclopedia of Jews in the Islamic World*. Leiden: Brill; 2010
- [27] Ye'or B. *The Dhimmi: Jews and Christians under Islam*. Madison: Fairleigh Dickinson University Press; 1985
- [28] *Sahih al-Bukhari*. *يَرَاخُ الْبَلَا حَيَّ حَصَّ*. Sunnah.com. <https://sunnah.com/bukhari> [Accessed: 19 June 2023]
- [29] Ali AY. *The Holy Qur'an*. Trans. and ed. Beltsville: Amana; 1983
- [30] Habib S, editor. *Islam and Homosexuality*. Vol. 2 vols. Santa Barbara, CA: Praeger; 2009
- [31] Kugle SS a-H. *Homosexuality in Islam: Critical Reflections in Gay, Lesbian, and Transgender Muslims*. Oxford: Oxford University Press; 2010
- [32] Boswell J. *Christianity, Social Tolerance, and Homosexuality*. Chicago: University of Chicago Press; 1980
- [33] Boswell J. *Christianity, Social Tolerance, and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century*. Chicago: University of Chicago Press; 1981
- [34] El-Rouayheb K. *Before Homosexuality in the Arab-Islamic World, 1500-1800*. Chicago: University of Chicago Press; 2009
- [35] Greenberg DF. *The Construction of Homosexuality*. Chicago: University of Chicago Press; 1990
- [36] (15) Chapter: The Legal Punishment for Slander. *دَوْدُحْ لَ بَاتِك*. 20 The Chapters on Legal Punishments. Sunnah.com. <https://sunnah.com/ibnmajah:2568> [Accessed: 19 June 2023]
- [37] 10. Hudud. *دَوْدُحْ لَ بَاتِك*. Sunnah.com. <https://sunnah.com/bulugh/10/12>
- [38] Santillana D. *Istituzioni di Diritto Musulmano Malichita con riguardo anche al sistema sciafiita*. Vol. 2 vols. Rome: Istituto Per l'Oriente; 1925-1938
- [39] Khan S. *Izhaar-e-Ishq: Queer Voices in Urdu Poetry. Studying the Work of Urdu Ghazal Poets Showed Me That Their Approach to Sexual Desire Is Far More Fluid Than I Had Realised*. Agents of Ishq; 2018 <https://agentsofishq.com/post/izhaar-e-ishq-queer-voices-urdu-poetry> [Accessed: 19 June 2023]
- [40] Ṭabarānī A, al-Qāsim Sulaymān. *يَنَازِبُ طَلَا طَسْ وَأَلَا مَجْعُمُ لَ Mu'jam al-Awsaṭ al-Ṭabarānī*. Vol. 7 vols. Beirut: DKI; 2012
- [41] Levi JA. *Muslim Women in Mainland China and Macau. Old Barriers, New Solutions*. E-revista de estudos interculturais do CEI-ISCAP 7. 2019 https://www.iscap.pt/cei/e-rei/n7/artigos/Joseph-Levi_Muslim-women-in-mainland-china-and-macau.pdf [Accessed: 19 June 2023]
- [42] Levi JA. *Middle East History*. Boca Raton, FL: BarCharts; 2011

- [43] Mirza U. ينار بطل امام طس والام جم ال
Al-Mujam al-Awsat – Imām Ṭabarānī.
2015 https://archive.org/details/al-mujam-al-awsat-jild-1_202106/al%20mu%27jam%20al%20awsat%20jild%201/ [Accessed: 19 June 2023]
- [44] Rajab, ‘Abd al-Raḥmān ibn Aḥmad Ibn, and Maḥmūd ibn Sha‘bān Ibn ‘Abd al-Maḥsūd. Sharḥ Kitāb al-Īmān, wa-huwa qīṭ‘ah min sharḥ al-Ḥāfiẓ Ibn Rajab al-Ḥanbalī ‘alā Ṣaḥīḥ al-Bukhārī. al-Qāhirah: Dār al-Ḥaramayn; 1998
- [45] Schacht J. The Origins of Muhammadan Jurisprudence. Oxford: Clarendon Press; 1950
- [46] Elias AA. Ibn Dhakwan on Gender: Lowering the Gaze for Beardless Young Boys. *Daily Hadith Online. The Teachings of Prophet Muhammad*. 2019 <https://www.abuaminaelias.com/dailyhadithonline/2019/07/03/lowering-gaze-beardless-youth/> [Accessed: 19 June 2023]
- [47] Mashita H, editor. Dhamm al-Malāḥī. London: Routledge; 2003
- [48] Dover KJ. Greek Homosexuality 1978. London: Bloomsbury Academic; 2017
- [49] Hubbard TK. Homosexuality in Greece and Rome: A Sourcebook of Basic Documents. Berkeley: University of California Press; 2003
- [50] McNeal K. Transgender Identities in the Ancient Mediterranean. LGBTI NEWS. 2009 <https://news.lgbti.org/transgender-identities-in-the-ancient-mediterranean/> [Accessed: 19 June 2023]
- [51] Bellamy JA. Sex and Society in Islamic Popular Literature. In: al-Sayyid-Marsot AL, editor. Society and the Sexes in Medieval Islam. Malibu, CA: Undena Publications; 1979. pp. 23-42
- [52] Bouhdiba A. Sexuality in Islam. London: Routledge & Kegan Paul; 1985
- [53] Bell JN. Love Theory in Later Hanbalite Islam. Albany: New York Press; 1979
- [54] Leaman O. Homosexuality. In: Esposito JL, editor. The Oxford Encyclopedia of the Islamic World. Vol. 6 vols. Oxford: Oxford University Press; 2009
- [55] Murray SO, Roscoe W. Islamic Homosexualities. Cultures, History, and Literature. New York: New York University Press; 1997
- [56] Semerdjian E. “Off the Straight Path.” Illicit Sex, Law, and Community in Ottoman Aleppo. Syracuse: Syracuse University Press; 2008
- [57] Wafer J. Muhammad and Male Homosexuality. In: Roscoe W, Murray SO, editors. Islamic Homosexualities. Culture, History, and Literature. New York: New York University Press; 1997. pp. 87-96
- [58] Al-‘Ajlūnī, Ismā‘īl. ينولج ع ل ل ع ا م س ا Al-‘Ajlūnī, Ismā‘īl. “فل أ ل ال فرح” (The Letter Lam Alif).
ب ا ت ك س ا ن ا ل ا ن س ل ا ل ع ل ع ا ل ا ل ا ن م ر ه ت ش ا م ع س ا ب ل ا ل ا
ل ي ز م و ا ف خ ل ا ف ش ك (Revealing the Invisibility and the Remover of Clothing from the Famous *Hadiths* on the Tongues of People). (National Technology Group). Available from: <http://www.al-eman.com> [Accessed: 19 June 2023]
- [59] 40 Hadith from 40 Hadith Collections, by Imam al-‘Ajluni. Australian Islamic Library. Available from: <https://www.australianislamiclibrary.org/40-hadith-from-40-hadith-collections-by-imam-al-ajluni.html> [Accessed: 19 June 2023]
- [60] Ben Nahum P. The Turkish Art of Love. New York: Panurge Press; 1933

- [61] Levi JA. Brazil. In: Stewart C, editor. *Gender and Identity around the World*. Vol. 1: Africa, the Americas, Asia, and Oceania. Santa Barbara, CA: ABC-CLIO; 2021. pp. 211-223
- [62] Traini R, editor. *Vocabolario arabo-italiano*, 1966-1973. Vol. 3 vols. Rome: Istituto Per l'Oriente; 1993
- [63] Alipour M. Islamic Shari'a Law, Neotraditionalist Muslim Scholars and Transgender Sex-Reassignment Surgery: A Case Study of Ayatollah Khomeini's and Sheikh al-Tantawi's Fatwas. *International Journal of Transgenderism*. 2017;18:91-103
- [64] Geissinger A. Applying Queer Theory to Pre-modern Sources. In: Howe J, editor. *The Routledge Handbook of Islam and Gender*. London: Routledge; 2021. pp. 101-115
- [65] Rowson EK. The Effeminate of Early Medina. *Journal of the American Oriental Society*. 1991;111(4):671-693
- [66] Zaharin AAM, Pallotta-Chiarolli M. Countering Islamic Conservatism on Being Transgender: Clarifying Tantawi's and Khomeini's Fatwas from the Progressive Muslim Standpoint. *International Journal of Health*. 2020;21(3):235-241. DOI: 10.1080/26895269.2020.1778238 [Accessed: 19 June 2023]
- [67] Moreh S. Mukhannathun. In: Meisami JS, Starkey P, editors. *Encyclopedia of Arabic Literature*. Vol. 2 vols. London: Taylor & Francis; 1998. p. 548
- [68] Ms Ar 3929 f.122. *Farewells of* دَيَّرُ وَبُأَ *Abū-Zayd and* ثَارَاجُ *Al-Hārith before the return to Mecca*, from تَأَمَّقَ *Al Maqāmāt* (The Meetings) by يَرِيحُ *al-Harīrī* (1054-1122), c. 1240 (gouache on vellum). Bibliothèque Nationale, Paris, France, in Salik Khan. "Izhaar-e-Ishq; Queer Voices in Urdu Poetry. Studying the Work of Urdu Ghazal Poets Showed Me That Their Approach to Sexual Desire Is Far More Fluid Than I Had Realised." *Agents of Ishq*. 2018 <https://agentsofishq.com/post/izhaar-e-ishq-queer-voices-urdu-poetry> [Accessed: 19 June 2023]
- [69] Haggerty GE, editor. *Gay Histories and Cultures: An Encyclopedia*. New York: Garland; 2000. pp. 515-516
- [70] Kugle SS a-H. Sexual Diversity in Islam: Is There Room in Islam for Lesbian, Gay, Bisexual, and Transgender Muslims? Muslims for Progressive Values; 2010 <https://www.mpvusa.org/sexual-diversity> [Accessed: 19 June 2023]
- [71] Martin RC, editor. *Encyclopedia of Islam and the Muslim World*. Vol. 2 vols. Farmington Hills, MI: Macmillan Reference USA; 2016
- [72] Omar S. *The Oxford Encyclopedia of Islam and Law*. Oxford: Oxford University Press; 2015
- [73] Semerdjian E. Zinah. In: Esposito JL, editor. *The Oxford Encyclopedia of the Islamic World*. Vol. 6 vols. Oxford: Oxford University Press; 2009. pp. 49-50
- [74] Unknown Artist. Amorous couple. Iran. Early 19th century. Oil on canvas 51.7 in x 30.3 in. Hermitage Museum. Available from: <https://hermitagemuseum.org/wps/portal/hermitage/digital-collection/01.+Paintings/87> [Accessed: 19 June 2023]
- [75] Murray SO, Roscoe W. Woman-Woman Love in Islamic Societies. In: Murray SO, Roscoe W, editors. *Islamic Homosexualities. Cultures, History, and Literature*. New York: New York University Press; 1997. pp. 97-104
- [76] Najmabadi A. Women with Mustaches and Men without Beards:

Gender and Sexual Anxieties of Iranian Modernity. Berkeley: University of California Press; 2005

[77] Burton RF. A Mission to Gelele, King of Dahome. 2nd ed. Vol. 2 vols. London: Tinsely Brothers; 1864

[78] Habib S. Female Homosexuality in the Middle East: Histories and Representations. New York: Routledge; 2007

[79] Tolino S. LGBTQI Rights in the Middle East and North Africa: Laws, Discourse, and Challenges. In: Salvatore A, Hanafi S, Obuse K, editors. The Oxford Handbook of the Sociology of the Middle East. Oxford: Oxford University Press; 2020. pp. 627-646

[80] Arberry AJ, editor. The Mystical Poems of Ibn al-Fāriḍ. Dublin: Eemery Walker; 1956

[81] Hjelmggaard K, Zarracina J. Where It's a Crime to Be Gay: A Visual Guide to Where LGBTG Rights Are Repressed. USA TODAY; 2023<https://www.usatoday.com/story/news/world/2023/06/05/safest-countries-lgbtq-rights-travel/70242408007/> [Accessed: 19 June 2023]

[82] Brown ETJ. Iraq: Sexual Orientation, Human Rights, and the Law. *Sodomy Laws*. 2005<https://www.glapn.org/sodomylaws/world/iraq/iqnews003.htm> [Accessed: 19 June 2023]

[83] AbuKhalil A'a. Gender Boundaries and Sexual Categories in the Arab World. *Feminist*. 1997;15(1 & 2):91-104

[84] Martin F, Jackson PA, McLelland M, Yue A, editors. AsiaPacifiQUEER. Rethinking Genders and Sexualities. Urbana: University of Illinois Press; 2008

[85] Roscoe W, Murray SO, editors. Islamic Homosexualities. Culture, History, and Literature. New York: New York University Press; 1997

[86] F.V.T. Laws of Nature: A Court Ruling Decriminalises Homosexuality. *The Economist*. 2014. <https://www.economist.com/pomegranate/2014/03/14/laws-of-nature> [Accessed: 19 June 2023]

[87] Johnson P. Buggery and Parliament, 1533-2017. Parliamentary History. Wiley Online library; 2019

[88] Steven. A Historical Look at Attitudes to Homosexuality in the Islamic World. Libcom. 2016<https://libcom.org/article/historical-look-attitudes-homosexuality-islamic-world> [Accessed: 19 June 2023]

[89] Najmabadi A. Professing Selves: Transsexuality and Same-Sex Desire in Contemporary Iran. Durham: Duke University Press Books; 2014

[90] Tait R. A Fatwa for Transsexuals. One Woman's Courage in Appealing to the Late Ayatollah Khomeini Has Made Tehran the Unlikely Sex Change Capital of the World. Salon.com. 2005 Available from: https://web.archive.org/web/20110607014405/http://dir.salon.com/story/news/feature/2005/07/28/iran_transsexuals [Accessed: 19 June 2023]

[91] Teh YK. Politics and Islam: Factors Determining Identity and the Status of Male-to-Female Transsexuals in Malaysia. In: Martin F, Jackson PA, McLelland M, Yue A, editors. AsiaPacifiQUEER. Rethinking Genders and Sexualities. Urbana: University of Illinois Press; 2008. pp. 85-98

[92] Lumbard JEB, editor. Islam, Fundamentalism, and the Betrayal of Tradition: Essays by Western Muslim Scholars. Bloomington, IN: World Wisdom; 2004

Beyond the Pen: Of Arrivals, Tricky Encounters, and Activism in Vieques, PR

Víctor M. Torres-Vélez

Abstract

In “Beyond the Pen: Of Arrivals, Tricky Encounters, and Activism in Vieques, PR,” Dr. Torres-Vélez presents an ethnographic account of the United States Navy’s activities in Vieques, Puerto Rico, and the resulting environmental degradation and health crisis experienced by the island’s inhabitants. The author argues that the US Navy’s military occupation of Vieques for over 60 years, and the subsequent contamination of the island’s landscapes, represents a modernity that endangers human lives and health through “conspiracies of invisibilities.” These conspiracies obscure the links between environmental damage and human disease. The ethnography provides in-depth analyses of Viequenses’ struggles against the conspiracy of invisibilities that has created and maintained the conditions under which military and economic interests supersede the values of human life and health. However, the transformation of individual suffering into a potent transnational anti-militarization movement is a redemptive one. Dr. Torres-Vélez contextualizes Vieques within the broader historical and sociopolitical landscape of Puerto Rico’s colonial relationship with the United States, highlighting how late-stage colonialism continues to affect individual lives. The author reflects on his experiences and challenges in conducting research in Vieques as an Afro-Puerto Rican medical anthropologist trained in the United States, weaving together biographical and historiographical elements to explain the tensions and motivations that led him to go “beyond the pen.”

Keywords: anti-military social movements, environmental justice, health justice, Vieques, Puerto Rico, United States military, political ecology, critical medical anthropology

1. Introduction

1.1 Tainting the land is wounding the body

For over half a century, the United States Navy’s activities tainted Vieques’ landscapes into spaces of danger, pollution, and disease. Behind the idyllic beauty of this Puerto Rican island lies the story of modernity’s betrayal, a path of destruction that, unlike Walter Benjamin’s Angel of History [1], can only be seen from up close, as if

examining a dark twist on Monet's impressionist technique. Sickness lurks within every toxic pollutant—a scene of bullets, bombs, and war machines.

At the end of the 1930s, with the impending World War II looming large and fears of German incursions in the Caribbean, the United States Navy seized two-thirds of Vieques, Puerto Rico, to secure their continuing military dominance [2]. However, Vieques did not only offer a military strategic position in the Caribbean; by the 1970s, the US Navy expanded its use of the island for military training. It used the eastern part of the island for a shooting range that provided training capabilities for simultaneously launching sea-to-land and air-to-land missiles. From the 1970s until 2003, the US Navy conducted the most consistent and continuous testing of conventional and unconventional weapons anywhere in the United States, conducting military practices for an average of 281 days of the year, thus detonating and degrading weapons and their chemical components all within the meager 52 square miles of Vieques for more than 30 years. Although island residents had mounted significant opposition against this military occupation throughout the years, it was not until 1999 when a 500-pound stray bomb killed a Puerto Rican security guard inside the military base, causing public outrage and igniting the massive protests that eventually turned into a highly organized diasporic and transnational social movement [3]. While this tragic event galvanized Vieques' social movement, the growing number of people dying from cancer and the subsequent organizing around health and the environment took center stage throughout the next 5 years. The health crisis was undeniable. By 2000 Vieques experienced a 40 percent increase in the overall mortality rate; a 34 percent increase in cancer mortality in a decade; a 253 percent increase in liver disease mortality; and a 12 percent increase in infant mortality [4, 5]. Neither the US Navy's assurances that military practices were safe for people and the environment, nor official biomedical etiologic explanations arguing that individual harmful behavior (smoking, diet, and drinking) was the most likely culprit for the health problems confronting the community, could keep people any longer from organizing into the most influential environmental justice movement in Puerto Rican history to date [6].

Military activities across the world have torn apart natural and social landscapes. The scars left on environments and people's bodies from Bhopal to Baghdad are unspeakable. Those responsible for such scars have profited not only from their infliction but also from keeping them hidden. In the specific context of Vieques, Puerto Rico, researchers have documented the profound environmental degradation caused by US military activities and the resulting sharp increases in chronic diseases such as cancer [7]. However, the links between the two had been consistently obscured: environmental damage and human disease. This ethnography provides in-depth analyses of Viequenses' struggles against the conspiracy of invisibilities¹ that, across many decades, has created and maintained the conditions under which military and economic interests supersede the values of human life.

The story is also a powerfully—if paradoxically—redemptive one. It is the story of the transformation of appalling individual suffering into one of the most potent transnational anti-militarization movements yet seen [3]. In the late 1990s, after more than 60 years of military occupation, Viequenses led a broad-scale mobilization that

¹ Through this concept, I want to call attention to discourses that, even when generated by different institutions (the state, capital, and biomedicine), have the same effect: to obscure the origins of oppressive circumstances. This structural articulation of multiple discourses that reinforce one another in their mystifying effect is what I call "conspiracy of invisibilities."

cut across previously intractable political and religious lines within Puerto Rico and which succeeded in ending US military weapons testing on the island by 2003. After decades of intermittent and largely ineffectual anti-militarization action, the final success of the Vieques movement startled both the US Navy and global observers.

This ethnography reveals the mobilizing power of community health in rendering the movement focused, efficient, and ultimately successful. It documents how Viequenses' making sense of health and disease brought them into deeply conflicted relationships with local agents of biomedicine, who provided etiological explanations that did not align with their own embodied understandings of the role of pollution and their health problems. This conflict delivers us an all too common yet utterly undertheorized phenomenon within the Environmental Justice literature: the biomedical's role in maintaining "conspiracies of invisibilities," which obfuscates linkages between toxic landscapes and public health crises. These biomedical institutions maintain "conspiracies of invisibility" by obscuring and denying people's embodied connections about their health problems and the toxic landscape they call home. Sanctioned, "expert" models of disease etiology are invoked in everyday encounters with Viequenses, and alternative, popular understandings of causation are excluded. This social movement uncovered what until then was hidden—the fact that Viequenses were paying with their lives for the "unintended" costs of US military activities. Indeed, a far too high price to pay for an economic system and a polity that neither accepts them as full citizens nor acknowledges their profound suffering.

This work draws together the strands of critical medical anthropology, science and technology studies, and feminist standpoint epistemologies to assert fundamentally new ways of understanding the nexus between twenty-first-century capitalism, neo-colonialism, and the political ecology of health and disease in formerly militarized spaces such as Vieques. In a "postcolonial" world, Viequenses' degrading health embodies, quite literally, a searing, visceral challenge to notions of the democratizing power of globalization. It reveals how the militarization of Vieques' landscape functioned as an integral part of a global regime of capital accumulation in the Western Hemisphere and biomedicine's role as a system of political legitimation for that regime. At the scale of the individual, the moments of multiple contradictions that Viequenses encounter—environmental, health, institutional, and existential—become moments in which "conspiracies of invisibilities" may be revealed and contested [6, 8].

The story of Vieques is thus the story of two dissonant realities: the reality fostered by economic theory and biomedicine and perpetuated in the sanctioned discourses of disease etiology versus the reality of people viscerally experiencing the long-term effects of environmental violence and exploitation. Ultimately, in documenting both the acute traumas and sustained diseases of Vieques' history, as well as their collective resistances, this work not only makes visible the scars of military involvement and occupation but also mounts a powerful critique of the complicity of explicit and implicit forms of US hegemony in compromising Viequenses' very lives and well-being. In this critique, my voice and praxis join that of other scholars [9–15] whose influential work in Vieques has made mine stronger.

In this chapter, I tell my story about conducting ethnographic research in Vieques, Puerto Rico, during the height of the social movement that eventually forced the United States Navy off the island in the early 2000s. In such a politicized context, negotiating my identity as an Afro-Puerto Rican medical anthropologist trained in the US proved more than challenging. In addition, I wrestled with the theoretical, methodological, and existential conundrums of researching in one's homeland, in a place

close to the heart, where sometimes one must take a stand. In this chapter, I explore these tensions, weaving together biographical and historiographical elements to explain why I decided to go beyond the pen.

This chapter is divided into four sections. First, in “Of Arrivals: Vieques, a Microcosm of Puerto Rico’s Colonialism,” I introduce Vieques Island within the larger context of Puerto Rico’s being the oldest colony in the world. The chapter continues with that all-too-familiar ethnographic trope of the first encounter with the research site. Second, in addition to documenting my naivete as a freshly minted anthropologist, it seeks to map out the political complexities of Puerto Rico and how they played out within the highly politicized space of activism within a colony with a long history of state oppression (local and federal) against people upholding an anti-colonial position on the island. Third, “The Gun and the Pen” briefly sketches the transition in the United States’ handling of Puerto Rico from a pre-World War II overt type of colonial government that relied on violence and assimilation to a post-World War II type of neocolonial government that obscured the colonial relationship by transforming Puerto Rico into a full-blown industrialized society. Finally, in “Beyond the Pen,” I acknowledge how anthropological work has historically been complicit in managing and disciplining the colonial world. I also make a case for going beyond simply documenting suffering. However, I illustrate how moving beyond the pen is often fraught with complexities and contradictions that deserve more attention. I conclude “Beyond the Pen” with first-person narratives illustrating what leaving my pen and field notes behind to take up activism meant. It was a small solidarity gesture which in and of itself was not much, but as part of thousands more throughout the years of sustained civil disobedience, it eventually tipped the scale against the Navy’s plans for Vieques.

2. Of arrivals: Vieques, a microcosm of Puerto Rico’s colonialism

This story originates between the cold winters of East Lansing, Michigan, where I pursued my graduate studies, and the hot summers of Vieques, Puerto Rico, where I conducted research. However, the roots of this story reach further back, encompassing significant historical events like the Spanish-American War, the US invasion of Puerto Rico, the Citizenship Act of 1917, the mandatory military service draft, and the Declaration of the Commonwealth of Puerto Rico in 1952. These historical moments shaped Puerto Rico’s sociopolitical landscape—and the experience of being Puerto Rican—in an intimate relationship with the United States’ development as a dominant power in the Western Hemisphere. The story of Vieques serves as a small yet impactful narrative within the broader tales of collapsing empires and emerging ones, challenging the notion of colonialism’s decline in the twentieth century and highlighting how late-stage colonialism continues to affect individual lives.

Vieques, a small island off Puerto Rico’s east coast, had a population of around 9400 during my research in the early 2000s. Most of the population (78%) is concentrated in just 22% (24 miles) of the island’s 110 square miles. The remaining 78% is occupied by US Navy facilities, with the west serving as munitions storage and the east designated for military practices. This unequal development has resulted in alarmingly high unemployment rates in Vieques, reaching 60%. Of the employed population, nearly half are engaged in low-paying service jobs related to the predominantly foreign-owned tourism sector. The per capita income stands at \$6562, while

over 64% of the Vieques population lives below the US poverty line. Unfortunately, visitors to the island often overlook this harsh economic reality, captivated by the enchanting beauty of the seemingly idyllic place and the warm hospitality of its people, whose livelihoods depend on tourism.

The United States' interest in Puerto Rico dates back to the mid-nineteenth century when the Monroe Doctrine established US dominance in the Western Hemisphere. However, it was not until after the Spanish-American War that the US could secure a military strategic position in the Caribbean with the acquisition of Puerto Rico. The Navy's acquisition of Vieques in 1939 became even more critical during World War II; Nazi incursions into the Caribbean Atlantic were becoming more daring. With the end of World War II in 1945 and the fall of old European empires, US dominance became clear and Vieques remained firmly within its grip. In the 1940s, Don Pedro Albizu Campos, the president of the Nationalist Party advocating for independence, emphasized that Vieques served as a microcosm illustrating the detrimental effects of colonialism in Puerto Rico.

During my first visit to Vieques, while on the ferry, I serendipitously met Doña Isabelita Rosado, a remarkable 93-year-old former Nationalist political prisoner and a speaker at a commemoration event. She introduced me to Roberto Rabin and Nilda, who were vital activist figures to the social movement and who ran the now legendary "Campamento Justicia y Paz," the principal hub of military resistance on the island and which I was hoping to make my focal research site. This camp was built in front of the military base's main gates, a location meant to signal the relentless might of the movement.

I also met Miguel, an experienced activist who generously offered to become my guide, introducing me to various activist factions operating in Vieques. Additionally, Freddy, another Puerto Rican graduate student researching the island, connected me with "Los enmascarados," a group engaged in civil disobedience activities within the shooting range. "Los enmascarados" were a faction of the social movement that conducted the most daring acts of resistance (such as in-and-out clandestine incursions in the shooting range), which required their identities to be veiled to protect them from military or police retribution. It was this group that I later joined to conduct civil disobedience in the firing range. We visited Campamento Justicia y Paz, and from there, we went on a march advocating for the Navy's retreat from Vieques. Marching through the different neighborhoods, it quickly became evident how impoverished they were in relation to the tourist areas. The barrios in Vieques resembled Barrio Obrero, the one I grew up in, on the main island of Puerto Rico. Isabel Segunda and La Esperanza were the main urban areas, and I lived in Monte Carmelo, a squatting community without basic amenities.

Doña Rosados' bridged two highly different but significantly poignant historical moments of anti-colonial resistance in Puerto Rico: the older Nationalists' anti-colonial armed struggles of the 1950s (largely unsuccessful but incredibly brave and daring) and Vieques' highly technologically and media-savvy nonviolent environmental justice movement. The last one standing in a bygone era, she served as the secretary of the Nationalism Party during Don Pedro Albizu Campos' leadership and spent two decades in US federal prison. In the repressive 1950s, the Partido Nacionalista spearheaded the national liberation movement in Puerto Rico, with nationalists even attacking the Blair House in Washington, DC, which led to the imprisonment of their members.

Albizu Campos eventually realized that, in a colonial society, the electoral process only perpetuated colonial status rather than abolishing it. By 1946, the 24-year-old

Partido Nacionalista abandoned electoral politics, opting for armed insurrection. This decision caused a split within the party, leading to the formation of the Partido Independentista Puertorriqueño (PIP), which ran against the Partido Popular Democrático (PPD) in the 1948 elections. Due to the political persecution suffered by the Partido Nacionalista, with its leaders incarcerated and their ideals criminalized, only a few members remained underground. The pro-statehood party, Partido Nuevo Progresista (PNP), emerged in 1968. Since then, Puerto Rico has had a three-party system dominating the electoral process, with the PPD and PNP securing the majority of votes, while the PIP remains a marginal player, garnering between 4 and 7 percent of the electoral vote.

Regarding Puerto Rico's political status, the PIP advocates for independence from the US, the PPD supports "free" association with the US (the current Commonwealth status), and the PNP seeks statehood, aiming to become the 51st state of the union. The political makeup of Puerto Rico's electoral landscape perfectly sums up the liminal space Puerto Rico inhabits. It is a space where political affiliations divide the will for change, where choosing a side on issues affecting Puerto Ricans always follows the official party lines. This is why Vieques' social movement was so puzzling. It is the only social movement in Puerto Rico that could transcend historically rigid political lines by equally engaging political subjects that it otherwise would not have attracted if the movement's ethos was cast in anti-military or anti-colonial terms.

The activist landscape unfolding before my eyes was much more complex than I had ever imagined. Competing narratives, strategies, and tensions between the multitude of actors were sometimes difficult to process. Here are some field notes from that day:

Activists in Campamento Justicia y Paz were getting ready for a march, rallying for option two in the Referendum Criollo:² the immediate retreat of the U.S. Navy from Vieques. After handing out Puerto Rican flags, bumper stickers, and educational literature to those present, we went for an exciting and tiring four-hour march through the barrios.

Hundreds of people singing, a sea of Puerto Rican flags waving, people handing out pamphlets for the "El Referendum Criollo"—nothing new in Puerto Rico, a country with one of the highest electoral participation rates in the Western Hemisphere. And yet, something in the ambiance was very different. It was the intensity of how people were experiencing the rally. The march (and all the subsequent activities I attended) was charged — at times — with sentiments of solidarity and consensus, at other times with animosity, particularly around Navy supporters.

² El Referendum Criollo sought to clarify if Viequenses were in favor or against the US Navy's presence on the island. After months of campaigns, the referendum took place on June 29, 2001, drawing a staggering 80.6 percent of the 5893 registered voters. The outcome was that 68 percent of the Viequenses voted against the Navy's presence on the island. While conducting my research, there were many rumors that the US Navy was bribing voters to vote in favor of the Navy. These rumors were confirmed when, 4 years later, on February 25, 2005, the Defense Department was forced to release the US Navy contract documents showing the payment of \$1,699,830.00 to a public relations firm known as The Rendon Group to influence the outcome of the election.

Floating like a leaf in the wind in the rush of the events, I realized that it was not a good idea for me to be seen in an anti-Navy rally on my first day on the island. But like a leaf, there was little I could do. Besides, I also wanted the U.S. Navy to leave the island.

In an effort to interview both pro- and anti-military activists, I tried to avoid drawing attention to my sympathies for the anti-Navy movement and my desire for immediate withdrawal from the island. Fortunately, attending anti-military rallies as part of my research did not preclude me from interviewing opposition members. However, the complex landscape of Vieques' activism goes beyond a simple discussion of political parties on the island. We now turn to a cursory understanding of the United States' imperial relationship with Puerto Rico to fully appreciate this complex activist landscape.

3. The gun and the pen: US hegemony in Puerto Rico

From the observation point (OP) of the civil disobedience movement, on the highest hill of the island, Monte Carmelo (the U.S. Navy is not the only one that has one with a vantage from which to gaze at the "other"), I see that Marines observe me from the other side of the fence, while I write these lines.

The unequal ground from which we stand—gun in one hand, pen in another—obliterates that too-brief moment of mutual recognition—two humans, without nationalities or anthems, staring at each other from opposite sides of the fence.

The US imperial gaze has been lingering over Puerto Rico for well over a century, and for much of that time, it has relied heavily on the explicit tools of coercion: military presence and military leadership. During the first 50 years of US explicitly colonial rule (1898–1948), about half of the governors appointed to Puerto Rico by the president of the United States were from the military. Not coincidentally, after the 1934 sugarcane workers' strike, led by Albizu Campos at the height of nationalist popular support, the subsequent four governors—appointed between 1929 and 1941—were military officers: two generals, one admiral, and one commander. Meanwhile, US citizenship imposed on Puerto Ricans in 1917 "coincided" with the United States' decision to participate in World War I. Between 1917 and 1973, which marked the end of the US military draft, over 200,000 Puerto Ricans were drafted into military service.

If the 1970s ended the obligatory draft, it also brought the realization among politicians and corporations that advertising and structural economic pressures were even more efficient mechanisms for guiding the poor into military service. Long after the end of the draft, the US military today continues to secure a handsome sum of recruits from high schools in the poorest neighborhoods of Puerto Rico. With few economic alternatives, joining the military becomes a path of upward mobility for the poor. To a great degree, this is the experience of Puerto Ricans at large and of Viequesens in particular. Census data shows that 8 percent of Vieques residents are US veterans.

However, pens have been complicit in perpetuating the colonial relation even more than guns. From art to literature to science, the tools of knowing, apprehending,

and representing the “Other” also produce, intervene in, and discipline colonized bodies. Photographs, newspaper accounts, and novels widely circulated at the turn of the twentieth century painted a picture in the US popular imagination of the duty to save colonies like Puerto Rico, Cuba, and the Philippines, both from Spain and themselves. Infantilized and racialized representations of colonial subjects were meant to convey to the American public that such subjects were unfit to govern themselves and, therefore, needed US political tutelage [16].

But if these cultural representations were needed to create an internal consensus for US expansionism, they were not enough to keep the colonial machinery going. Colonial rule in Puerto Rico needed to evolve from the gun to the pen: the kind of “expert” knowledge embodied in doctors, psychiatrists, social workers, economists, and urban planners, among others [17]. The “gun” refers to the period when the colonial government openly persecuted nationalist supporters and thus exercised its governmentality through the oppressive apparatus. On the other hand, the “white gown” refers to the period when experts (psychiatrists, economists, urban planners, social workers, etc.) produced disciplined subjects through expert knowledge. It is not that one governing strategy replaced the other one—indeed, they did overlap—but instead, there was a change in the emphasis. During the colonial period, there was a greater emphasis on violence, while during the Commonwealth period (still colonial), there was more emphasis on scientific management. This included the development of light manufacturing and, most importantly, the development of manufacturing consent itself [18].

The advent of Rexford Guy Tugwell as the last North American US-appointed Governor of Puerto Rico (1941–1946) signaled a change in colonial rule. Tugwell, a Columbia University agricultural economist, was one of the intellectual architects of Roosevelt’s New Deal. However, it was not until Luís Muñoz Marín became the island’s first elected governor under the newly established Commonwealth of Puerto Rico in 1952 that a comprehensive shift to the pen in establishing and maintaining power took hold. New-Deal style policies (as well as monies) found their way into Muñoz Marín’s social platforms. Muñoz Marín was highly motivated to create, out of the peasantry, a well-trained and well-disciplined labor force that would attract to Puerto Rico the global postwar investment boom. With massive investments in infrastructure and manufacturing training, the Muñoz Marín administration radically transformed Puerto Rico—from an agrarian society into an industrial one. In fewer than 20 years, the so-called “Operation Bootstrap” achieved what it took England 500 hundred years to achieve in Puerto Rico: a full-blown industrial economy.

With these shifts in Puerto Rico’s mode of production came parallel shifts in modes of governmentality. In contrast to the openly colonial US rule of the first part of the century, with the advent of the Commonwealth in 1952, the “precise” and “scientific” modes of ruling that emanated from industrial labor models prevailed. An army of experts with pens in hand—including economists, urban planners, doctors, nurses, social workers, and social scientists—was poised to demonstrate how to become a “modern” society in Puerto Rico. At the same time that Muñoz Marín was using the figure of the “jibaro” (creole peasant) to rally support for Operation Bootstrap on the island, agrarian ways of peasant life were being dismantled [19].

The monumental scale of biopolitical power’s operation in Puerto Rico would have startled even Foucault, a French scholar who carefully documented eighteenth century state uses of expert knowledge in disciplining the unruly French working class. From family planning campaigns (exalting the American ideal of the small, nuclear family) and programs such as Operación Serenidad (“Operation Serenity,” helping

people to adapt to modernity) to population control (where one-third of Puerto Rico's child-bearing aged women were sterilized), the capillaries of biopolitical power ran deep. While initially hailed as an economic miracle, this drastic transformation's negative environmental, social, and economic consequences have been considerable; more than 50 years of damage are still being cataloged and analyzed.

The pen has wrought as many casualties as the gun in Puerto Rico. Expert knowledge is authoritative because its producers are said to be objective—that is, the results of their findings are presumably untainted by personal ideas or subjectivities. The gaze of experts, therefore, is a gaze from nowhere: a gaze that, in its abstraction, abandons responsibility and accountability for what it sees and from whence it sees. It is a gaze that denies its corporeality—and, in doing so, denies the human condition itself. Seeing and writing are not unmediated processes; authoritative forms of writing tend to erase the cultural, political, and social filters from which they operate.

4. Beyond the pen: activism and the anthropologist

From an academic point of view, my initial interest in environmental justice was based on my research experience in Querétaro, Central Mexico. My work there between 1999 and 2000 revealed a clear correlation between disease prevalence associated with water contamination by a nearby transnational industrial complex. Although the health of community members was compromised by industrial water pollution, individuals could not make direct connections between their health and the environment. This inability to correlate environmental conditions with health afflictions minimized the community's possibilities for collective mobilization. My research revealed that this collective myopia derived from a medical regime that concealed evidence of devastating relationships between the environment and health in the region.

While I was conducting this research in Mexico, Vieques' anti-militarization movement exploded. In sharp contrast to the case of Querétaro, however, the people of Vieques successfully organized and mobilized around health and environmental concerns. These collective articulations of political will fascinated me, and I began my research in Vieques in 2001. The move, of course, brought me closer to my own life—to an exploration of how places like my childhood home of Barrio Obero and the still-unfamiliar island of Vieques embody the overt and covert relationships between poverty, twentieth- to twenty-first-century “globalization,” and communal disease and mortality. Since my field research ended, my mother's experiences have given the concept of environmental inequality a new and painful meaning for me—one that continued to guide my personal and professional concerns.

Within the context of my fieldwork, my personal experiences did more than help me to understand how Vieques fits within the larger Puerto Rican and global context: They deeply informed my theories and methodology. The initial tension between my academic and biographical voices stems from a critical moral impetus: to observe and write or to go “beyond the pen” and act. When anthropologists become activists within their field sites, their academic credibility often suffers.

Returning home to Nigeria, Amadiume [20] grappled with what she felt to be the ethical imperative of actively engaging in local struggles for political participation among women while also remaining mindful of the necessary limits to her participation—defined by her various relationships to and within, the field site itself. Amadiume sought a way out of her impasse—the imperative of acting and the limits

of participation in the field site—by taking the “political struggle with the pen.” I, too, understood my writing as taking the “political struggle with the pen,” but it soon became evident that keeping my participation within the limits of my field notes was not enough—perhaps it was not even an option. Given what I witnessed in Vieques, I had to participate in the collective mobilizations against the US Navy as an activist. However, this “activist” positioning did not depend only on me but on how people perceived me and placed me within their semiotic system and how I perceived myself in a context of political tensions and suspicions. Like field researchers such as Amadiume, I am not only an anthropologist studying forms of colonialism but a neocolonial subject myself. This presents its conundrum within anthropology, as anthropology was founded within colonial and neocolonial projects. As a Puerto Rican anthropologist working at “home,” I envisioned my work as part of the long tradition of critical Puerto Rican scholarly work. I came to realize, however, that my positioning is not as clear-cut as I thought. It is not enough to think that my work will fundamentally challenge the colonality of power when the very existence of the discipline in which I am trained came about as a result of such colonialism. The methods I am using—most notably, participant observation—involve a “gaze” similar to that which has surveilled Puerto Rico from the US mainland for a century. This would be made abundantly clear to me early on in my fieldwork:

After several days of playing the anthropologist, with that obsessive habit of constantly taking notes, some faces became more familiar to me, and more curious about who I was. As usually happens while doing fieldwork, I — the anthropologist — was not the only one asking questions. After approaching me in Monte Carmelo, Eric — who identified himself as a Viequense—asked me without hesitation, “¿Quién carajo eres y qué haces aquí?” (Who the hell are you, and what are you doing here?). Some people were nervous about me, and many joked about me being an FBI agent. I also knew those jokes meant much more than that. These jokes marked me as an untrusted outsider. I understood why he questioned me, but knowing this did not make me feel better. My identity as a Puerto Rican was questioned. This questioning made me feel I was somehow an accomplice of the U.S. colonial project. I could only reassert my “Puerto Ricanness” through my working-class background: “Mano yo soy del Barrio y cómo dice la canción: de Barrio Obrero a la Quince un paso es” (Bro, I’m from the Barrio, like the song says).³

For not only the purpose of dispelling activists’ fears about me but also for my emotional well-being, I was impelled to establish rapport with the communities of my field site through my ethnic or cultural capital—even when my simultaneous positionality as a US-trained graduate student of anthropology made me feel I was inhabiting a paradoxical space. Although my cultural competence, in terms of my working-class origins, enabled me to attain a certain degree of acceptance within Vieques activists’ networks, my final decision to actively participate in the protests was also influenced by social pressures that included jokes, gossip, shame, and embarrassment, as the previous example of me being an FBI agent points out. My positioning as an “activist” in Vieques should therefore be understood as reflective of

³ Bro, I’m from the hood, and as the song says: “from Barrio Obrero to the 15th bus stop is only one step away.” These are the lyrics of Willie Rosario’s popular salsa song, written in the 1970s; it indexes specific landmarks of Santurce’s working-class geography.

not only my Puerto Rican native-ness and accompanying political views—against the colonial situation and the US military presence in Puerto Rico—but also of the evolving contingencies, pressures, and negotiations of fieldwork among activists within complicated, late-colonial sites. Fortunately, for a newer generation of anthropologists, the complicated dynamics of conducting research as an engaged activist ethnographer are now receiving more attention within the discipline [21–23], and this writing is part of this contribution.

However, what did going “Beyond the Pen” mean for me? In what follows, I share a first-person account of my experience conducting civil disobedience in Vieques by sneaking into the US Navy’s military base, reaching the shooting range, and serving as a human shield against the sea-to-land and air-to-land missiles launched during one of the largest military practices ever conducted in Vieques. It is presented in three vignettes: “The Wait,” “The Rescue,” and “Sneaking In.” After this account, I will conclude the chapter with some final remarks.

4.1 The wait

The impending bombing had everybody on edge. The activists were getting ready to launch their civil disobedience at any moment. At the height of collective actions, there were three types of civil disobedience actors: public figures (artists, politicians, celebrities), regular folks, and the folks keeping it going. The first two groups’ primary purpose was to get into the firing range to get arrested. Public figures draw the media’s attention by getting arrested in front of the cameras, while regular folks’ arrests were about disrupting the federal court system— the more people detained, the more disruption there was. The mission of the folks keeping it going was to get in and out of the shooting range without getting caught. This was the most secretive group because they were at the forefront, cutting fences, guiding people within the firing range, and, at times, confronting the military.

I was not part of the well-known public figures’ group, as my only claim to fame was to be the youngest of ten siblings. And, although undeniably a regular folk, I did not necessarily want to contribute to collective actions by being arrested. If I were to become a “human shield” against the bombings, it had to be without getting caught. The logic behind this (besides the fact of fearing imprisonment) was that I had no funding for my research; I needed to take advantage of whatever time I had left that summer to conduct my research, and, given the long sentences for those arrested (from 1 to 6 months in federal prison), I feared such a hiatus would undermine my capacity to finish my graduate studies. My mother’s pleas that I not go into the shooting range (it was too dangerous, I could get hurt, and we did not have money to pay for lawyers or bail) also weighed heavily. Having avoided the fate of many of my childhood friends in Barrio Obrero who had chosen a more profitable, although dangerous career path within the underground drug economy, thus ending up locked up or dead, it was ironic that precisely that which had kept me away from trouble— namely, school —was now leading me into trouble.

Having overcome some of the to-be-expected distrust from the activists, I finally got into one of the secretive civil disobedience brigades. This would not have been possible without Freddy, another graduate student connected with the activist leaders, who vouched for me. Getting in, however, only partially dispelled the distrust. Until the last

minute, they withheld the details of breaching the military base. Long hours passed after longer ones during the three nights I waited to be summoned.

The night was darker than usual; the moon was nowhere to be found. Nevertheless, right before departing from Campamento Justicia y Paz, our full names and personal information were taken and broadcasted on the radio to ensure that in case of any “accident,” there was a record of those protesting in the shooting range.

The wait for Godot was over. Time, until then still, suddenly unraveled. We needed to leave at once. With angst, an activist said, “The guides are trapped, surrounded by Marines inside the base. We need to get them out now.” Another activist, exasperated with the news, added, “Without them, we are screwed. We will get our asses caught before even finding our way to the shooting range at night.” The flickering reflection in people’s eyes was not the result of the lonely 60-watt-bulb attempting to guard us against the ominous dark. Instead, it was the unspoken mixture of anxiety and frustration shared by the group. Or perhaps I saw my own fears reflected.

One of the activists ran to get a couple of wandering journalists and their crew, who were hanging out in Justicia y Paz, to join us — who, I am sure, were also anxiously waiting for something newsworthy to happen. If the tree was going to fall, people would hear it. But I hoped not to be the fallen tree making the news that night. A few journalists were American freelancers doing a story for National Geographic. There was also a local TV news crew. After quick exchanges about the best course of action, about fifteen of us crammed ourselves, as best we could, inside two dilapidated pickups and one old jeep.

Moments before, I had made sure to have in my backpack everything I needed for the incursion: nine bottles of water, ten granola bars, a couple of apples, baby wipes, mouthwash, vinegar, and one big ol’ white fabric banner with “STOP THE BOMBINGS” written in red letters. I also packed another bag, for safekeeping, with anything that could implicate my research participants and activists were I to fall into the hands of the military. I departed from the things which were, until then, the constant appendixes of my persona: my field notes, recorder, and camera. Days before, I called my family in Barrio Obrero and a couple of friends back in Michigan to inform them of my plans to sneak into the shooting range.

As it turned out, the activists leading this mobilization were no less than “Los enmascarados” (a masked group that mass media always seemed to favor in the spotlight). Within the unspoken division of activist labor in Vieques, los enmascarados were the group that would carry out the riskiest tasks to make civil disobedience possible. For instance, one of the tactics to disrupt military operations was to systematically cut down the fences surrounding the base. This was serious business. Being caught in this action carries a sentence of up to ten years in prison for destroying federal property. This group organized the brigades meant to stop the bombings without getting caught; hence the secrecy, the masks, and my difficulties in gaining their trust. But the masks were not only about confidentiality. They were an attempt at symbolically linking Vieques’ struggle with the Zapatista struggle.

The exact location of where we ended up parking escapes me. Perhaps that was the point since knowledge of the routes to sneak into the base needed to be secret. We walked for about twenty minutes monte a dentro (into the woodland). With the guides

surrounded by the Marines near the fences, the plan was to split into two groups: one would create a distraction, while the other would fetch the guides out of the base. Then, one activist told us, "Get ready because we are los enmascarados." The cameras started rolling as we finished covering our faces with makeshift masks. Once masked, even I got fifteen seconds of fame when a local TV reporter interviewed me. The makeshift covering could not fool friends and acquaintances who saw me in the news that night. Luckily for me, assuming the identity of an "enmascarado" was a one-off. I doubt it could have lasted any longer than that!

4.2 The rescue

As soon as we arrived at the farthest part of the fence, right on the beach, we started screaming at the U.S. Marines. It was a strange symphony, the a-rhythmical sound of our voices overriding the peaceful rhythms of the waves. The cameraman was behind us, filming with a light almost as blinding as the military halogen lights beaming down on us from the top of the wired fences. I felt like an actor and a spectator simultaneously, in an impossible state, both roles canceling each other out at every step. I uttered insults, stumbling over my too-self-conscious recently acquired English, like reciting a poorly written script. I could not speak this language three years ago to save my life. I was profoundly uncomfortable speaking English in my motherland.

Eight or nine Marines showed up on the other side of the fence, and a tidal wave of adrenaline seemed to rise over all of us. We rode it –the three or four of us closer to the fence– with our fingers clenched hard to the wires; we pushed and pulled, trying to rip it right out of the ground. "Gringos get the fuck out of Vieques," "Go back home," "Stupid assholes," we shouted. I could not help but think that it was very possible that among those Marines there were also Puerto Ricans in uniform serving in the military –like my absentee father 50 years ago and my brother more recently. Bilingual insults were now flowing like water from a dam about to collapse. It was scary, infuriating, and cathartic.

All of a sudden, we started hearing gunshots. Hell broke lose. We ran as fast as the sand allowed us to run, as fast as the pepper spray allowed us to breathe. Smoke curtains were rising everywhere. Rubber bullets were flying and barely missing our contorting bodies. Burning eyes. Cold sweat. Sickness. We kept running far enough that neither the bullets nor the tear gas could reach us anymore, where the ocean breeze could give us a respite. Still trembling from the commotion, I scrambled to find the vinegar in my backpack, not for salad, but to help us counteract the ill effects of the awful gas. Not all of us were lucky that night –a few trees did fall in the encounter after all. Although chance spared me from this, two in our group were shot. A UPR student got hit, "luckily," on one side of his buttocks, and the American cameraman filming us suffered a most severe injury when he got shot on his left elbow. Very nasty and painful bruises, indeed. Hurting with rubber bullets⁴ an American journalist was probably not the best public relations strategy for the Navy's already negative public image.

⁴ This is what Amy Toensing, one of the National Geographic photo-journalists coming along with us, wrote on her blog about this incident: "As we were leaving my friend, who is a photographer with the Associated Press, was shot in the arm with a rubber bullet. It mangled his arm, and he had to go through weeks of therapy. I was shocked to hear the Navy gave him a reprimand, rather than an apology: 'He should not have been wearing a black T-shirt,' the Navy PR woman told him, even though they had turned bright lights on us. It did not seem to matter that my friend had three cameras around his neck, making it very

To my surprise, the plan did work –I have to admit I was skeptical of being able to fool people trained in military strategy, even more so when they were U.S. Marines. Although still shaky and drained –as if experiencing a sugar crash– I cannot deny having felt a shared moment of pride when we finally met with the guides. I was sure the flickering reflection of people’s smiles was not so fleeting or only in my head. We wanted to celebrate: eat, drink, and laugh. After that ordeal, I knew it made sense to postpone our incursion again until things in the military base settled down. In my mind, I was already savoring a warm “comida criolla” (local meal) and a cold beer. My bubble burst in the blink of an eye, and an activist quickly told us: “It’s now or never. They are not expecting us to return so soon; we must take advantage of that.” Digging deep in my backpack, resigned, my fingers groped until I found a nutritious but tasteless granola bar and a warm bottle of water.

4.3 Sneaking In

Soon after sneaking in, a premature sense of accomplishment settled in. The trees’ canopy, hovering over our heads and pierced only by the stars of a clear sky, added a sense of security. We walked deep into the woods without saying a word, hoping to find the dirt road to guide us to the firing range. Freddy, in his mid-thirties, and the three college students –no older than 19– were in the front, leading the group. Unlike me, this did not seem like their first time walking these beaten paths. Cheo, the physical education school teacher (also about my age), Don Moises, a man in his late sixties who described himself as el abuelo/the grandpa of the group, and I were towards the back, following Freddy and the others. One by one, I drank my water bottles; they seemed to leave my backpack more quickly than the hours passed. Midnight, one, two ... by three a.m., I was already down to five bottles. I knew I needed to ration my water, but my thirst– like the canopy of trees– was too intense. Our false sense of security was wearing out as we could not find the marker for a secret route leading straight into the shooting range.

We finally stumbled upon the dirt road, but the marker on it, some inconspicuous rag hung from a tree, was nowhere to be found. Freddy and the college students frantically whispered, trying to decipher how off-track we were. Stopping for that second and watching them at a distance, I wondered how they had any energy left! After all this walking, all I could think about was sleeping. Even “our” grandpa seemed to be doing better than me. Unfortunately, sleeping at night was now, and for the next few days, a luxury we could not afford if we wanted to move forward undetected.

My ruminating about sleeping was abruptly interrupted. The loud sound of an engine was rapidly approaching. We ducked fast. So fast that the only glimpse we could catch was of each other’s unblinking, wide-open eyes. For that fraction of a second, we stared at each other like deer in headlights. Luckily, we reacted, and the tall grass along the dirt road took us refuge. We kept still. The jeep seemed to slow down almost to a stop; the loud engine was so close you could almost touch it. Bright lights, soldiers talking– from the ground, hidden behind two-foot-tall grass, I could see their silhouettes walking against the backlight like in a 1920s black-and-white movie. But I could not

clear we were journalists, not protesters” (Source: <http://ngm.nationalgeographic.com/ngm/0303/feature2/assignment2.html>).

distinguish their words, for my heart was pounding so hard that I was sure they would hear it.

We remained still for what appeared to be an eternity. Eventually, the lights were gone, as well as the soldiers and the jeep. Or were they? We waited a little longer. Freddy finally told us it was safe to come out. Standing up was more challenging than I thought it would be. My forearms and elbows, full of fresh cuts from the razor-sharp grass, were pressed against the dirt. My arms were also numb from holding that awkward position for that long. We joked around about how quickly we reacted, about the funny faces we made, about shitting our pants from the scare. We laughed hard, but our attempts to muffle our nervous laughs were forced; behind that bonding moment, we knew too well how close we had come to a potentially fatal encounter. There were no cameras, reporters, or TV crews to shield our actions this time. Instead, there was an abundance of testosterone, youth with something to prove, and guns on the Navy's side. It was a recipe for disaster. This encounter could have easily turned catastrophic.

We resumed our search for the infamous landmark. Besides Freddy, the college students knew where it was, or so they thought. With the impending sunrise nearby and without clues as to how quickly we would reach our destination, heading East was our best bet. Soon after deciding on this, as a blessing and a curse, a gorgeous sunrise snuck up on us and was made more gorgeous because, after a crazy sleepless night, I was probably in an altered state of consciousness—no controlled substances needed. A blessing because the sunrise meant we would finally get some sleep. It was a curse because it also meant that our arrival at the firing range would be pushed to the next day, given that walking during the day was out of the question. There was also the fact that this military training session was among the biggest in terms of artillery, type of target practice, and number of military personnel. According to the newspapers, over a thousand Marines were on the military base for these practices.

With the first rays of sun clearly showing us the East, we walked deeper into the woods and away from the dirt road. Perhaps because the sunlight was now perforating through the trees, I noticed the vegetation changing as we advanced. The deep green tones were shifting into yellowish and light brown tones. The abundant vegetation was now becoming patchy. Dry bushes and prickly cacti replaced the deep greens. A substantial number of craters also spaced out around us— and surrounding their immediate circumference, no vegetation at all. Some of them were deep and wide. Lead, arsenic, copper, manganese, cobalt, iron, aluminum, phenols, sulfates, benzene, dioxins, white phosphorus, depleted uranium: as if in an unholy litany, I could not stop my mind from going over the never-ending list of pulverized, dangerous heavy metals surrounding us. I could not stop thinking about the possible health consequences of such exposure could have been either. Possibly nothing, given that, unlike Viequeses, our exposure would be relatively short, but then again, depleted uranium is radioactive. There I realized that knowledge could be as poisonous as heavy metals and could not help but feel sick. As if this was not enough, many big bombs were unexploded. It suddenly hit me how silly of me was worrying about toxins when the more imminent danger was being blown up into pieces! We moved carefully, watching every step, hoping the next step would not be the last one. The last bit of adrenaline in our bodies shot through our veins to push us further into safety. At last, we found a well-hidden resting ground.

They told me I fell asleep right away. It was not as if they were watching over me; they knew this because I started snoring as soon as I lay down. My snoring was so loud that they feared the Marines would find us. That's why they kept waking me up, or so they told me, since I don't remember waking up. What really woke me up was the blasting sound of exploding bombs nearby. I don't know how close they were, I could not see them, but I could feel the earth beneath us shaking violently. I had no frame of reference for this. Not even the 5.7 earthquakes (on the Richter scale) that hit Mexico in 1998 while I was conducting fieldwork compared to these tremors. Right then, at that precise moment, the seriousness of our situation became even more evident. As if in an out-of-body experience looking at myself from afar and understanding the fragility of our bodies against such unnatural forces, I came to confront my mortality. I could die; we all could die. "¿Qué carajos hago aquí?" (What the fuck am I doing here?) the question kept surfacing, but I— and not a Viequense questioning my loyalties— was asking.

The purpose of sharing these vignettes is not only to record my own experience but to share it as an example of the emotional texture surrounding civil disobedience. I hope that by sharing my story, others might better understand why thousands of people with no prior activist experience join together in nonviolent protests despite the risks involved.

5. Conclusion

In this chapter, I have woven historiographical and biographical elements together to place Vieques within the larger context of Puerto Rico. In maintaining the tension in my writing—expressed in the double paradox of authoritative and anecdotal voice, on the one hand, and objective observer and subjective activist on the other—I have illustrated the theoretical and methodological conundrums of doing research in one's homeland, in a place close to the heart, where sometimes one must take a stand.

I first provided an overview of the history and consequences of the United States Navy's activities in Vieques, Puerto Rico. It highlighted the environmental degradation and health problems caused by the Navy's military training exercises and weapons testing on the island. The section also discussed the social movement that emerged in response to these issues and eventually succeeded in ending the Navy's presence in Vieques.

In subsequent sections, I contextualized the story of Vieques within the broader historical and sociopolitical landscape of Puerto Rico's colonial relationship with the United States. In Puerto Rico, the reality is that the majority of the population shuns political nationalism. The historical outline in this chapter is meant to provide a context from which to understand this rejection. In the light of this colonial history, Vieques activists' over-caution around me is more than well-founded. My account of the misfortunes of nationalism is not meant to define the ethos of Vieques' social movement either. It would be wrong to call this movement nationalist. This movement succeeded because it consciously avoided the pitfalls of political nationalist discourse. My point, however, is that colonialism has profoundly influenced the everyday life of Puerto Ricans on both the main island and Vieques.

I also sketched Puerto Rico's evolving modes of colonial governmentality from the early twentieth century to the present. In the Gun and the Pen section, I explored the dynamics of US hegemony in Puerto Rico, emphasizing the interplay between the

“gun” and the “pen” as tools of control and domination. While the early colonial period in Puerto Rico relied on the gun, the section emphasized that the pen has perpetuated colonial relations even more. Cultural representations, such as photographs and literature, were used to justify US expansionism and portray colonial subjects as unfit to govern themselves. The shift from the gun to the pen signifies a transition from overt violence to expert knowledge as a means of control. The introduction of experts in various fields, such as doctors, economists, and urban planners, aimed to discipline and govern the colonized population. The section also discusses the role of Rexford Guy Tugwell and Luís Muñoz Marín in implementing New-Deal style policies and transforming Puerto Rico into an industrial economy. The establishment of the Commonwealth in 1952 brought about a shift to “precise” and “scientific” modes of governance, with experts using their pens to shape Puerto Rico into a “modern” society.

In conclusion, the ethnography presented sheds light on the profound environmental degradation and health crisis caused by the United States Navy’s activities in Vieques, Puerto Rico. The US Navy’s military occupation of the island for over 60 years resulted in the contamination of landscapes, leading to increased rates of chronic diseases, including cancer and infant mortality. Despite the Navy’s safety assurances, the community’s organizing efforts and mobilization around health and environmental concerns eventually led to the end of military weapons testing on the island in 2003.

This research highlights the complicity of biomedical institutions in perpetuating “conspiracies of invisibilities,” denying the connections between environmental damage and human disease. The study also underscores the transformative power of community health in fueling the social movement and its success. By making the scars of military occupation visible and exposing the role of biomedicine as a system of political legitimation, the Vieques movement challenges the notions of democracy and globalization.

My experiences and identity as a Puerto Rican medical anthropologist add depth and complexity to the study. Negotiating my role as an academic observer and an activist within my homeland posed challenges but ultimately contributed to a more nuanced understanding of the issues at hand. The decision to go “beyond the pen” and actively participate in the protests reflected a commitment to solidarity with the community and a rejection of the complicity of academic work in colonialism.

This ethnography contributes to critical medical anthropology, science and technology studies, and feminist standpoint epistemologies, offering new perspectives on the intersections of capitalism, neo-colonialism, and the political ecology of health and disease. By revealing the dissonance between official discourses and lived experiences, the study denounces the US military’s disregard for human life and well-being.

Overall, this research emphasizes the importance of community mobilization, the need to challenge dominant narratives, and the potential for collective action to bring about meaningful change in the face of environmental injustice and systemic violence. The story of Vieques serves as a testament to the resilience and power of grassroots movements in challenging power structures and reclaiming agency over their own lives and landscapes.

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References

- [1] Benjamin A. Walter Benjamin and History. In: Walter Benjamin Studies Series. Continuum. First ed. London: Bloomsbury Publishing; 2005
- [2] Ayala C. Del latifundio azucarero al latifundio militar: Las expropiaciones de la marina en la década del cuarenta. *Revista de Ciencias Sociales*. 2001;**1**(10): 1-33
- [3] Torres-Velez VM, Molinari S, Lawrence K. Conjuring the close from Afar: A border-crossing tale of Vieques' activism and Obama-empire. *Souls*. 2013;**15**(1-2):89-109
- [4] Nazario MC. Informe Final Del Proyecto de Estudio de Cáncer En Vieques. Río Piedras: Universidad de Puerto Rico; Recinto de Ciencias Médicas; Escuela Graduada de Salud Pública; 2001
- [5] Nazario MC, Mansilla-Rivera I, Ramírez-Marrero F, Crespo C, Rodríguez-Sierra C. Assessing arsenic exposure from consumption of seafood from Vieques-Puerto Rico: A pilot biomonitoring study using different biomarkers. *Archives of Environmental Contamination and Toxicology*. 2013;**66**: 162-175
- [6] Torres-Vélez VM. Dolor y rabia: The passionate politics of women's activism in Vieques, Puerto Rico. *Latino Studies*. May 2021;**19**:186-206
- [7] Wargo J. *Green Intelligence: Creating Environments That Protect Human Health*. New Haven: Yale University Press; 2009
- [8] Torres-Vélez VM. Reification, biomedicine, and bombs: Women's politicization in Vieques's social movement. In: *Disability Studies and the Environmental Humanities: Toward an Eco-Crip Theory*. Lincoln & London: University of Nebraska Press; 2017
- [9] Barreto A. *Vieques, the Navy, and Puerto Rican Politics*. Gainesville: University Press of Florida; 2002
- [10] Baver SL. "peace is more than the end of bombing" - the second stage of the Vieques struggle. *Latin American Perspectives*. 2006;**33**:102-115
- [11] Berman. La lucha continúa: Challenges for a post-navy. *Centro: Journal of Puerto Rican Studies*. 2006; **XVIII**(001):108-123
- [12] McCaffrey K. *Military Power and Popular Protest: The U.S. Navy in Vieques, Puerto Rico*. Rutgers University Press; 2002
- [13] Soto MC. Inhabiting Isla Nena: Imperial dramas, gendered geographical imaginings and Vieques, Puerto Rico. *Centro Journal*. 2008;**20**:164-191
- [14] Roberto Vélez Vélez. Reflexivity in mobilization: Gender and memory as cultural features of Women's mobilization in Vieques, 1999-2003. *Mobilization: An. International Journal*. 2010;**15**(1):81-97
- [15] Roberto Vélez Vélez. Moving memories in Vieques: Towards a memory approach in mobilization research. *International Journal of Liberal Arts and Social Science*. 2013;**1**(2):53-66
- [16] Duany J. Mobile livelihoods: Circular migration, transnational identities, and cultural Borders between Puerto Rico and the United States. In: *The Puerto Rican Nation on the Move: Identities on the Island & in the United States*. Chapel

Hill: University of North Carolina Press;
2002. pp. 208-235

[17] Briggs L. Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico. Number 11. Berkeley: University of California Press; 2002

[18] Chomsky N. Manufacturing Consent: The Political Economy of the Mass Media. 1st ed. ed. New York: Pantheon Books; 1988

[19] Davila AM. Sponsored Identities: Cultural Politics in Puerto Rico. Philadelphia: Temple University Press; 1997

[20] Amadiume I. The mouth that spoke a falsehood will later speak the truth: Going home to the field in eastern Nigeria. In: Bell D, Caplan P, Karin WJ, editors. Gendered Fields: Women, Men and Ethnography. New York: Routledge; 1993. pp. 182-198

[21] Hale CR. Engaging Contradictions Theory, Politics, and Methods of Activist Scholarship. Global, Area, and International Archive. Berkeley: University of California Press; 2008

[22] Juris JS, Khasnabish A. Insurgent Encounters: Transnational Activism, Ethnography, and the Political. Durham: Duke University Press; 2013

[23] Shukaitis S, Graeber D. Constituent Imagination: Militant Investigations// Collective Theorization. Oakland, CA: AK Press; 2007

Chapter 6

Individual Costs and Civic Impacts of Social Artivism in Music: Three Case Studies from Sub-Saharan Africa

Gardy Stein and Tatek Abebe

Abstract

After a general introduction to music censorship in sub-Saharan Africa and the concept of *social artivism*, this chapter presents three case studies of African musicians – namely Hachalu Hundessa (Ethiopia), Bobi Wine (Uganda), and Miriam Makeba (South Africa) – who, because of their political activism and the critical nature of their lyrics, were persecuted, imprisoned, exiled, or even killed. Drawing on existing studies, autobiographic material and interviews, the chapter discusses the difficulties and dangers faced by musical activists in their respective countries of origin when practicing cultural and political rights as well as the “freedom of speech” that is guaranteed in many countries and assumed a global standard of our times, but is still a utopia in many regions of the world. The chapter inquires about the motivations of the artists to take the risks involved in publishing their music, and into the impact their works have on individuals, groups, and the society at large.

Keywords: social artivism, miktivism, political activism in music, Uganda, Ethiopia, South Africa

1. Introduction

“Music may not create a revolution with a song, but studying the way music functions in periods of societal unrest can provide us with important clues about the genealogy, dynamics, and potential trajectories of movements for social and political change” [1].

Music, as one of the oldest cultural practices of humanity, has an undeniable power, uniting people through the shared experience of both esthetic enjoyment of beats, instrumentation and melodies (physical effect), and cognitive understanding of the lyrics and their subtexts (emotional effect, cf. [2]). Artists, bands, and singers are able to reach a large number of listeners with their songs, especially since digitalization made global networks and streaming platforms readily available for audiences everywhere, any time.

The direct influence of lyrical musical content on cognition, attitudes, and behavior of consumers has been the subject of a broad scope of research ranging from misogyny in US-American Rap music (e.g. [3, 4]) to the unexpected catalyzing effect music had on the Arab Spring Revolutions (e.g. [1, 5–7]). It is exactly this property of music, the ability to move, unite, and inspire people to stand up against injustices, which political leaders fear, especially in unstable and non- or semi-democratic environments. The banning, silencing, and persecution of artists with critical lyrics is thus a common practice in many of these states. Several studies deal with the issue of music censorship, which has been defined by Marcus as a “wide variety of practices (...) [which] combine to ensure that articulation of certain facts and opinions are curtailed and prohibited” [8]. Côté discusses the different forms music censorship takes across the world, providing illustrating examples from the USA, China, Algeria, the former GDR, and others [2].

Regarding censorship in sub-Saharan Africa, two articles in the volume “Les censures dans le monde” [9] discuss the situation in this region. Drewett [10] elaborates on the mechanisms employed to censor musicians in countries such as South Africa, Nigeria, Kenya, Zimbabwe, and Malawi, further noting how the former states of Zaire and Rhodesia were notorious for banning both local and foreign music and literature (see his article for further information). Drewett extends Marcus’ definition of censorship to include the dire situation of African artists in totalitarian, authoritarian, or semi-authoritarian regimes. He argues that the censorship of popular music “includes a wide variety of inter-related practices [...] to explicitly interfere with the freedom of expression, association, and movement of popular musicians [as well as] ensure that the articulation of certain facts, opinions or means of expression are stifled, altered and/or prohibited” [10]. Less relevant for the current research project, but interesting for anyone studying (the lack of) press freedom in Africa, the article by Frère [11] presents examples of media censorship in francophone Africa. Other important contributions to the field come from Korpe [12], Devroop [13], and especially Cloonan & Drewett [14], who devote a whole book on popular music censorship in Africa. Giving the artists themselves a space to voice their opinions and share their experiences, the compilation “How Free is FREE?” brings together 25 authors from fourteen African states who describe in detail the socio-political situation in their home countries [15].

Authoritarian regimes justify censorship of music by branding the songs concerned as “hate speech” or “threats to national security”, or by considering them as enhancing insurgence struggle and liberation movements and thus trying to silence non-conformist voices [2]. The success of these actions remains limited to the media under government control and within a state’s territory, however, especially when artists make clever use of underground channels to distribute their music, e.g. via social media platforms, or when they go into exile and operate from the powerful African diaspora communities that have formed all over the world.

Researching politics and civic rights through the lens of popular music can be a way of understanding authoritarianism, but also redressing ‘elite bias’ in knowledge production. It recognizes more explicitly the significance of popular culture – defined as the everyday practices, experiences, and beliefs of what has been called “the common people” [16] – and explores how memory, history, and politics are intertwined. Popular music does not just allows us to ‘remember’ knowledge that has been excluded, forgotten, left on the margin, or ‘lost’; it also restores perspectives that challenge hegemonic or mainstream moral, social, and political ideologies, thereby disrupting the *status quo*. Popular songs are used to share messages in contexts where national media is saturated with official propaganda

and private media hardly exists or, if it does, is heavily censored. As Allen (2004) and Mano (2011) have suggested, “African popular musicians sometimes perform the role of journalists” by revealing hidden injustices perpetrated by hegemonic political structures (cited in [17]). Their music is “viewed as a political weapon that connects all the oppressed people. Its therapeutic effect and political function is collectively and individually experienced” [18].

Despite the growth in studies that focus on political songs (e.g. Onyebadi [19] about the political messages of Fela Kuti, Lucky Dube and Alpha Blondy; Künzler & Reuster-Jahn [17] focusing on the “musical open letter” as political commentary in Africa), less attention has been paid to the consequences those musical pieces and *miktivism*¹ [20, 21] have for their originators – the singers, musicians or songwriters that dare to formulate socio-political topics and criticism in their lyrics. Many of them have been persecuted, imprisoned, exiled, or even killed because of their courage to “speak out loud” against politicians and governments. It is thus the intention of this chapter to acknowledge the courage of these activists by giving visibility to their contributions and exploring how musicians risk their personal well-being to advance social or political causes they believe in. We ask how singers deploy their resources, skills, and talents to address pressing concerns in their communities and societies, discussing their intentions and strategies as well as the consequences they bear. The following pages trace the biographies and oeuvre of three exceptional artists from sub-Saharan Africa, describing both the difficult circumstances of their creative activities as well as the effects their output had on their personal lives and the repression they faced from governments and political leaders.

While important aspects of this chapter were collected in an extensive literature review and a content analysis of several interviews, both authors contribute vital insights into the matter from different angles. Dr. Gardy Stein holds a doctorate in African linguistics, focusing on youth language practices and the lyrical content of African artists, describing the world-order narratives displayed in their texts. As a music journalist, she has established expertise in music genres such as Reggae and Hip Hop, which are traditionally known for the nonconformist, rebellious, and critical nature of their texts. Professor Tatek Abebe’s research explores the generational dimensions of music and worldmaking, looking at how the music made by young people provides a window into the ways they make sense of the future and history, as well as their capacity to imagine the world differently. His ongoing project in Ethiopia examines lyricists, singers, and music video producers’ practices of musicking not only as a technology of resistance against structural violence such as eviction, dispossession, and displacement, but also as part of a broader struggle for political, cultural, and epistemic justice. In addition to the comparative approach used to collate the three case studies, including a detailed description of the repressive measures taken by the artists’ respective governments and an analysis of the socio-political contexts they work in, the authors elaborate on the theoretical concepts of *miktivism* and *social activism*, expanding existing models by focusing on the individual costs incurred by artists and the civic impact generated by them.

¹ Tatek Abebe [20] coined the term *miktivism* to denote the use of music for activism in his study of the connection between music and the Ethiopian youth uprising of 2014–2018. He argues that *miktivism* is the practice of employing what young music activists consider to be their resources and talent - music, microphone, music videos, and songs - to highlight questions of structural violence and advance causes of social justice.

To embed the research question in a scientific context, Section 2 will give some theoretical background on *social activism* before, in Section 3, the three case studies are presented. Each case study will first provide a brief socio-political context of the artists' country, then talk about the life and work of each artist, and, finally, discuss the individual costs involved in publishing critical songs as well as the impact they have. A conclusion is drawn in Section 4, including an outlook on further research desiderata.

2. Social activism

"All musicking is ultimately a political art" [22].

Art, next to its esthetic motivation or the wish to express emotions, has always been a site of protest, too: open and direct in democratic societies that adhere to freedom of speech and tolerate criticism, hidden and much more metaphorical in situations that do not allow the outspoken voicing of opinions.

In recent years, this form of artistic protest movement around the globe has come to be called (*social*) *artivism*. While there seems to be no widely accepted definition of the term (it is often simply explained as portmanteau word consisting of 'art' and 'activism'), an *artist* is defined as someone who "uses their artistic talents to fight and struggle against injustice and oppression – by any medium necessary. The *artist* merges commitment to freedom and justice with the pen, the lens, the brush, the voice, the body, and the imagination" [23]. According to Williams, the term *artivism* – the use of creative and artistic license as methods of expression to denounce, cultivate awareness, and motivate change in society – "was first coined in 1997 in Ref. to the gathering of Chicano artists and the Zapatistas in Mexico" [24] and has subsequently found entry into academic discourse as well (e.g. [25–27]).

Art as a tool for the creation of a democratic society or for the improvement of living conditions in communities has been implemented in several successful projects (cf. [27–29]). Art forms such as graffiti, poetry, theater, and especially music have always been a powerful way to voice criticism from the grassroots. In Ethiopia, popular music has emerged "as the most pervasive means for youth to challenge the state ideology of ethnic federalism" [30] as well as diverse forms of cultural 'unfreedoms' and structural violence. Several studies highlight the role of music in times of conflict and war, but also as a tool for promoting peace (e.g. [31–34]).

In the context of decolonization, art plays an important role throughout Africa, both in the discussion about the restitution of art objects [35] and in emerging art forms that are new, independent, and proudly African [36]. In music, this innovation is especially visible in local forms of Hip Hop [37] and the immensely swift establishment of Afrobeats as one of the most successful global genres over the last decade [38, 39].

Introducing the concept of *cultural brokerage*, Schneidermann [40] argues that musicians are brokers at the intersection of music, market, and politics, and conceptualizing their political agency thus might be helpful when trying to understand the multiple and often ambiguous strategies of musicians in contemporary Africa. Unfolding this brokerage further, Schneidermann explains, how "the new generation" and their music became central points of contestation in the field of politics and elections [40, 41].

In addition to wielding the potent “weapon of song”, popular musicians “may act as representatives for a cause, or they can use their connections and the media’s sensitivity to their actions and movements to draw attention to an issue” [2]. However, musicians engaging in social activism are especially vulnerable. Pictures, photographs, and sculptures may be crafted and made publicly accessible anonymously if so desired, but to perform a song on stage requires the physical presence of the singer, making them easily identifiable. The instances of singers suffering persecution for their artistic output are manifold: the famous Nigerian musician Fela Kuti was imprisoned for 20 months by the Muhammadu Buhari regime in 1984; the house of South African artist Mzwakhe Mbuli was attacked with grenades and teargas by the apartheid police; Cameroonian singer Lapiro de Mbanga was arrested after telling the republic’s president Paul Biya to lay down his office in a song... the list is long (cf. [10]).

In the present context, we understand *social activism* as the attempt of individual artists to bring to the attention of a wide audience social and political issues that are otherwise muted and censored by the ruling elite, such as Apartheid in South Africa, corruption and despotism in Uganda, or ethnically motivated oppression in Ethiopia.

3. Three case-studies from sub-Saharan Africa

What is meant by the “individual costs” evoked in the title of this chapter? For one, this refers to the economic costs the artists suffer when their government or related bodies censor their work. Sales and distribution bans reduce the income they can generate from their releases, and the refusal to play or broadcast their songs results in less listeners discovering, liking, and buying their tracks². The musicians might lose recording and performing contracts, thus their livelihood, and, in many cases, self-imposed censorship is the only way to avoid external discipline. On the other hand, and much more dangerously, are the costs connected to the artists’ mental and physical health, or even lives. As will be seen in the examples below, musicians suffer threats, attacks, imprisonment, and even death due to their courage and resolve to address societal issues they deem important. Some experience harassment and intimidation for voicing their political viewpoints or defending or expressing their cultural identities. Others navigate a fine line between their artistic and professional duties of upholding their rights – language rights, the right to the city, religious rights, racial equality, etc. – and the everyday structural violence that such activism entails. Limiting this chapter to three case studies is entirely contingent on space restrictions – in no way should our choice of artists be seen as a rating of them being “more important” or “more courageous” than others.

3.1 Hachalu Hundessa (Ethiopia)

“[As] I am one of the oppressed, I express my disappointment against...subjugation through my music. Art is a tool to tell the truth and expose tyranny” [43].

² “Restrictions on artistic expression result in social and economic losses, deprive artists of their means of expression and livelihood, create an unsafe environment for artists and their audiences, neuter debates on economic, social and political issues and limit the functioning of democracy” [42].

Institutional music censorship in Ethiopia spans the experiences of artists across generations, ethnicity, religion, and political affiliation [30]. Historically, the Ethiopian state's policies of music censorship involve practices such as the underfunding of the development of culture and language as well as imposing restrictions on the content, production, distribution, broadcasting, and performances of music. Mollenhauer [44] demonstrates how a long history of censorship of Oromo music by various ruling elites has made censorship one of the major features of Oromo's social and esthetic processes. During the Imperial Haile Selassie regime, songs and music of ethnic groups were not seen as an expression of culture and identity, evident in the regime's "One language (Amharic) and One religion (Orthodox Christian)" policy that imagined Ethiopia as a unified, coherent nation. During the socialist regime (1975–1991), Oromo music was largely absent from the national music scene due to the fear of sentiments of pan-Oromo nationalism. Yet, Oromo folk music played a valuable role in political critique using, in most cases, metaphors or satirical lyrics so as to veil the message in a humorous and, therefore, socially acceptable manner [45]. The socialist regime saw music as a contradictory resource. On the one hand, music was a potentially dangerous weapon of dissent and resistance, so its production was regulated nationally. On the other hand, singers had to include at least one patriotic song about the 'motherland' in their albums for obtaining approval for their music production. This is because such music was believed to inculcate ideals of patriotism in the minds of the young, facilitating socialization to certain ideologies and the formation of political subjectivities. During the Ethiopian People's Revolutionary Democratic Front (EPRDF) rule (1991–2018), it was not uncommon for artists to be prevented from holding concerts or have their songs 'delegitimized' and, subsequently, not be able to air their songs on national media outlets [30] or even 'free' Frequency Modulation (FM) radio stations. Whereas the EPRDF regime selectively preserved Oromo culture, musicians were imprisoned, intimidated, and disappeared for making certain kinds of music [44, 46]. Artist Ali Birra spoke about the criminalization of musical culture and hidden forms of denigration and dehumanization of artists and said that any form of political activism through music needs to be understood against the backdrop of the state's sanction and music censorship practices [47].

Born in 1986 in Ambo, Oromia, one of Ethiopia's ten national regional states, Hachalu Hundessa tended cattle as a child and sang locally, so when he became an activist for Oromo freedom, his roots were recognized and revered. He was arrested at age 17 by the EPRDF regime for taking part in protests and imprisoned for 5 years at Karchale Ambo (a state detention center), which became his "academy" of political activism, enabling him to acquire valuable political knowledge. Hachalu's music career took off after his release from prison and, within a short period of time, he became a well-known singer and songwriter whose powerful lyrics and unapologetic singing style resonated with millions of people both within Ethiopia and abroad. His first album "Sanyii Mootii" ('Royalty'), released in 2009, was written while he was in prison. The album contains nine tracks that address socially conscious themes of homeland (*Mada Walaabuu*), national identity (*Oromumma*) as well as politically charged struggle songs. He published his second album "Waa'ee Keenyaa" ('Our Cause') while he was on a tour in the USA, and the album became the #1 sold African music album on Amazon.

Hachalu's powerful miktivism, which captures the loss, existential precarity, and the subjugation of Oromos within modern Ethiopia, is most obvious in the single hit "Maalan Jira" ('Do I even exist?'), mobilizing a generation of youth

protestors (*geerloo* [21, 49]). In “Maalan Jira”, Hachalu sings about the pain of displacement – from love and places – in multi-layered lyrics. The corresponding music video, which makes references to historical figures, was released in 2015, as the Ethiopian government was implementing Addis Ababa’s Integrated Development Plan, vernacularly known among youth protestors as the “Master Killer Plan”, to extend the city’s borders and administrative scope into surrounding Oromia towns [21, 49]. “Maalan Jira” not only showcases the story of accumulation through dispossession, but it also unravels the complex ‘choreography’ of urban revanchism that justifies landgrabs and successive Ethiopian states’ narratives of nation-building. Its euphemistic lyrics made it a “message music” [48] and the soundtrack of Oromo protest and resistance, contributing to the momentous political awakening of youth in Ethiopia’s most populous region.

Another song that inspired youths to stand up for their rights was “Masaan Gamma” (‘Field Over There’). The remix of “Masaan Gamma” is part of Hachalu’s second album “Waa’ee Keenya”, but it was further popularized through his several live performances. Its lyrics focus on universal themes of equality and freedom, but also on the importance of defending one’s nation and how one never rests their head before justice is served for the killings, displacement, and exploitation people endured and continue to suffer from. An excellent example of the track’s mobilizing power is found in the ways young people engaged with it during the 2016 celebration of *Irreecha*³, an annual thanksgiving ritual that marks the end of the rainy season and the beginning of the harvest season.

Hachalu’s poetic musical lyrics inspired and facilitated the youth protests and revolution which, in 2018, led to the implosion of the EPRDF regime that ruled Ethiopia in iron-fisted, ‘developmental state’ rhetoric for nearly three decades [20, 21, 49]. His songs and music videos are crafted to express, promote, and assert multiple rights of the Oromo people – the largest ethnic group that accounts for over a third of Ethiopia’s 110 million inhabitants. Despite being a demographic majority, Oromos have been kept at the margins of social, economic, and political power. One example of this marginalization is that the language (Afan Oromo) was not used in schools until the mid-1990s, and it was only recently it got promoted to a status of a federal language, alongside Amharic. As Abebe and Aitken [21] note, Hachalu’s music speaks to these questions of (the lack of) right to political freedom, right to culture and identity, and right to stay put in a political environment where dissenting voices are discouraged [21, 49].

Since Hachalu’s miktivism taps into the oral tradition, it appeals to multiple generations, but most prominently to *dhalootaa qubee* (‘the younger generation’) [21, 49]. His performances in front of live audiences or recordings on CDs and music videos on YouTube created unique political soundscapes that spread counter-hegemonic discourses and ideas about rights and freedoms. Hachalu is described as “at once a provocateur, social critic, and an inspiration and outlet to a generation suffocated by a deep state hell-bent on clinging to power through the barrel of the gun” [50]. As of June 5th, 2023, “Maalan Jira” was watched on YouTube 13,541,078 times, generating 6819 comments⁴, whereas its sequel, “Jirra” (‘We are still here’) has over 4,924,130 views and over 4760 comments⁵. Similarly, his live performance to raise funds for 700,000 displaced people during the Oromo-Somali inter-ethnic conflict, “Jirtu”

³ <https://www.youtube.com/watch?v=BKpyDCN7jU0>

⁴ Hachalu Hundessa: Maalan Jira, available from: <https://youtu.be/Wv3he6CGF3E>

⁵ Hachalu Hundessa: Jirra, available from: <https://youtu.be/PbNkaKTQ3N8>

(literally meaning ‘Are You Alive?’), which is now adopted as a greeting, a slogan, and a political statement that signifies the survival and defiance of the Oromo people against all odds, has received widespread admiration both on and off stage. It is worth noting that Hachalu’s works all speak to the multiple facets and dimensions of human existence as well as what it means to be Oromo both historically and in contemporary times.

“Maal Maallisaa” (‘What Could Be The Solution?’), Hachalu’s third album, was released on Spotify and YouTube posthumously in July 2021, on the first anniversary of his death. The album was widely listened to, making it to the top of the Billboard charts for weeks. The track “Maal Maallisaa” has two seamlessly interconnected parts (indignant resistance song and poetic recital) and – like many of the songs in the album – serves the dual purposes of resistance and revolution. The lyrics of the *gersera* part in the track (a melody-infused, poetic recital that is often performed by warriors before going to a battle, hunting, or after victory) are replicated from Hachalu’s several live performances, most notably the July 2018 concert that was attended by thousands of people, including Ethiopia’s prime minister Abiy Ahmed and Eritrea’s president Isayas Afwerki. The concert was held in the Millennium Hall in Addis Ababa, following the peace agreement between Ethiopia and Eritrea that resulted in Abiy Ahmed winning the 2019 Nobel Peace Prize. Hachalu’s poetic recital at the live performance captures the political climate of the time when the protracted youth revolution – or, to use Lefort’s [51] words, the “Ethiopian Spring” – was at its height, generating hopeful futures and a new discourse of governance. In it, Hachalu weaves together powerful messages enmeshed in culture and history, activating collective memories, and capturing, inspiring, and aspiring the future in ways that are electrifying [21]. He mobilizes the youths and declares why they need to organize and dare to speak to power.

Hachalu Hundessa was murdered on June 29th, 2020, a few days after an interview on the Oromia Media Network, where he criticized the government and insurgent groups fighting in the Oromia region. In that interview, he unpacked some of the narratives informing his music, but his remark on decolonization of monuments and restitution for stolen horses of Oromos – who see themselves as gallant warriors and horsemen – became controversial topics on social media, where his death was called out [21]. Hachalu also spoke about the imminent danger to his life, saying: “Every day I walk in this city, I know I walk alongside death” [52]. The circumstances under which he was killed triggered a wave of protests and mass mourning in ways that demonstrate how he is seen as a hero by millions. In the days that followed his death, internet was switched off by the government, and demonstrators clashed with government security forces over the question of where his body will be laid to rest. Whereas hundreds of people were killed in Ethiopia, protestors also destroyed the statue of Haile Selassie in Wimbledon (London) and that of Makonnen Wolde Mikael (military leader under Ethiopian emperor Menelik II and father of Haile Selassie) in Harar [53] as a decolonial move of erasing symbols that embody histories of oppression.

OPride voted Hachalu Hundessa “Oromo Person of The Year” in 2017 “for capturing and expressing the frustration, anger, and hope of Oromo protesters through revolutionary lyrics; for courageously defying forcible suppression of dissent (...); for providing a stirring soundtrack to the budding Oromo revolution; for breaking down fear and structural barriers through rousing musical storytelling, and for uniting the Oromo masses and amplifying their collective yearning for change” [50]. His songs are characterized as enabling Oromos “to imagine beyond the given-ness of present arrangements”, showing

how “the present is not inevitable, [but] that things could be different and better” [54]. His music activism gave millions of people a sense of pride and future predicated on the recognition of their language, history, culture, and identity. His lyrics, which are enmeshed in tradition and culture, do not just invoke history and activate collective memories in ways that are relatable but also connect groups that are otherwise divided by gender, generation, religion, political ideology, and class.

Hachalu's murder led to a surge in ‘justice music’ that recognizes his political activism in ways that also pay tribute to the deeds of fallen justice warriors (*goototaa*) through which social struggles and visions are sustained. Many singers dedicated songs that invoke the notion of *gumma*, demanding justice for his murder – which is seen as a “watershed moment” in Ethiopia's recent history – as articulated in, for example, Gelana Garomsa's hit music video “Wal Agara” (‘We Shall Rendezvous’) [55]. Soreti Khadir [56] and Leta K. Aga [57] produced poetic narratives that connect the legacy of his life's work as an artist, activist, father, husband, son, brother, colleague, and friend, explaining his youthful struggles for freedom and the politics of future-making with which he was deeply implicated. Tadele Gemechu [58] places him alongside main freedom fighters and their aspirations for liberated life in his creative music video about national history-making, thereby continuing singers' traditions of paying homage to heroes and heroines who sacrifice their lives for noble causes. The Hachalu Hundessa Foundation was founded in 2021 to honor his legacy and create a platform where “artists from diverse backgrounds can showcase their talent, share their stories, and engage in meaningful dialog that bridges gaps and promotes mutual respect and appreciation” [59]. The foundation also aims “to promote the rich cultural heritage of Ethiopia, amplify voices that champion justice and equality, and foster a vibrant music community that encourages artistic growth and social impact” [ibid].

3.2 Bobi Wine (Uganda)

“We are met with brutal force every time we try to raise our voices, every time we try to seek for the change that we know we constitutionally deserve” [60].

The Republic of Uganda, having emerged on the territory of the kingdoms of Buganda, Bunyoro, Ankole, Toro, Busoga, and others [61], today is an authoritarian regime under current president Yoweri Kaguta Museveni. He has ruled the country uninterruptedly since 1986⁶, and even though the most recent elections in 2021 were labeled as ‘democratic’ by the government, the facts tell a different story. Leading up to the elections, opposition forces were criminalized, and “(i)nstances of opposition gatherings being broken up with heavy-handed police and army tactics (...) became increasingly common” [62]. Critical voices in the country are heavily sanctioned by imprisonment, torture, and even killings, brutal tactics that were also applied to the artist-turned-politician this section introduces: Robert Kyagulanyi Ssentamu, better known by his stage name Bobi Wine.

Born in 1982 in the Mpigi district, he grew up with nine siblings in Kamwokya, which is described as “one of the worst slums in Kampala” [63]. After some first steps in music during school, Kyagulanyi worked hard to save enough money to record some songs he had written (e.g. “Abakyala” in 2000). It was not until he released “Akagoma”, which was played on the radio and in nightclubs, that people started to

⁶ The ruling NRM party even changed the 1995 constitution for him to be able to do so, deleting the 75-year presidential age limit, as Museveni turned 76 before the 2021 elections [62].

take notice, and by the time he finished Makerere University with a degree in music, dance, and drama, he had established himself as promising talent. Increasingly, he addressed social issues in his songs, speaking about the daily struggles he and his fellow Ugandans went through. Early on, Bobi Wine realized that his output is more than pure entertainment: “Ours is not just music, ours is a revolution, you understand. We are not just artists, we are activists, only that we do it through music. If we could do it through something else we would, but music seems like the best medium of communication” [64]. Ten years later, asked about the nature of his creative works, he replied: “My music has evolved from only entertainment to edutainment (...). As I grew up, I realized that I had a responsibility to represent my people’s views through music, and that’s what I do!” [65].

As he considers himself to be a voice of the people, Bobi Wine called himself “Ghetto President”, a name that quickly took hold and spread through the members of his Firebase Crew [40]. His elder brother, Eddy Yawe, owned a recording studio called Dream Studios in Kamwokya and ran for parliament for the opposing Democratic Party in 2011 [ibid] – an early exposure to political activism for Bobi Wine. In a time when many other artists gladly accepted commissioned work for ruling president Museveni’s 2011 election campaigns, performing praise songs at rallies, Bobi remained loyal to what he later called the People Power Movement [41].

Subsequently, Bobi continued to release critical songs (his catalog amounts to a total of over 70), such as “Tugambire ku Jennifer”⁷ in 2012 or “Dembe”⁸ in 2016, until he himself felt inspired to become involved with the political agenda of his country and joined parliament as an independent delegate for the Kyadondo East seat in 2017 [62]. Well known for the open critical standpoint he takes in his lyrics, the government did not take this step lightly. “More than 120 of his concerts in 2017 were canceled by security forces, who use teargas and water cannons to break up his rallies” [68].

Following several threats, he was imprisoned in 2018, as different independent media report: “On August 13th, the authorities in Uganda arrested Mr. Wine, along with other MPs and activists. Ten days later he was charged with treason. He limped into court, unable to walk unaided; his lawyers say he was beaten by soldiers. Opposition politicians are often arrested on bogus charges. But Mr. Wine’s detention has ignited public outrage and exposed the generational chasm in Ugandan politics” [69]. After being released from jail two weeks later, partly due to the mounting international pressure of a #FreeBobiWine campaign that went viral on social media [68], the artist went to the US to seek medical treatment for his injuries, speaking about what had happened to him in a BBC interview: “They did unspeakable things to me. They brutally arrested me, beat me, tortured me, abused me, and left me for dead” [70].

In 2019, when much of his music was banned in Uganda⁹ and his concerts got canceled, he was invited to perform at Jamaica’s biggest festival Rebel Salute, which,

⁷ The song “accused Jennifer Musisi, the Kampala Capital City Authority’s newly appointed Executive Director, of brutality in the implementation of development plans, bulldozing street-vendor pitches from the city’s streets” [66]. For the song’s video, see <https://youtu.be/uGicDL5aIps>

⁸ In “Dembe”, Bobi Wine in fact encourages peaceful elections, at the same time condemning the current leaders for using violence to come into or stay in office. It was banned from playing on national radio stations [67]. For the song’s video, see https://youtu.be/7J7b_a2EcZE

⁹ Thus, for instance, “Freedom”, which “(...) excoriated Museveni’s leadership and became an anthem for protests against the age limit amendment” [62].

by being aired and streamed worldwide, gave Ugandans the possibility to follow his concert¹⁰. Back home, he was again arrested in November 2020, when preparing a rally for his presidential campaign in Luuka, an Eastern district of Uganda. This new violation of the popular activist's rights "(...) triggered mass protests across the country, leaving at least 54 people killed after security services used live rounds against the unarmed protesters" [62]. On the evening before the elections took place, the internet was cut off nationwide, and "Bobi Wine was placed under house arrest with the military and police forming a ring around his home and barring any entry or departure" [62]. Museveni declared himself the winner with 58.6% of the votes vs. 34.8% for Kyagulanyi Ssentamu [71], a result that was heavily doubted and petitioned against by the latter and the NUP in a vain attempt to annul the election [ibid].

While these results might be interpreted as a defeat of Ssentamu's candidature, they clearly illustrate the impact that he has on the Ugandan public, especially the younger generation. Building on the following he had accumulated during his career as a popular singer, he "(...) skilfully used his music to spread his message" [62] and, once he had entered the political arena, "won overwhelmingly with a campaign based largely on social media, WhatsApp groups, Twitter, and Facebook. He very quickly became the most visible and outspoken opposition politician in Parliament and beyond, mobilizing a large number of followers and international media on Twitter and Facebook" [40].

Another sign of the impact he has, not only in Uganda but internationally, is his inclusion on Time Magazine's 2019 list of the "100 next influential people in the world" [72]. No doubt inspired by his unusual story and his global media presence, filmmakers Christopher Sharp & Moses Bwayo have teamed up to produce the documentary "Bobi Wine: Ghetto President", which premiered at the 2022 Venice International Film Festival [73] and will play across movie theaters in 2023.

Bobi Wine, with his undeniable talent, his success as a singer and political activist, and his unapologetic stance against injustice and corruption, is an inspiration for freedom fighters around the world. His constant defiance of the threats, the physical assaults, and the strict censorship of his music by the Ugandan government have solidified his authenticity and credibility, making him extremely popular with the young generation of Uganda. As shown, the achievement of this status entailed high individual costs, including severe injuries and the death of his driver who was shot on the day Bobi Wine was arrested in August 2018 (cf. [74]), but also enabled him to start changing things in his country – to have an impact on society. Asked about the role music plays in his activism, he made a convincing statement that summarizes his ambitions:

"My hope and prayer is that the music continues to give the confidence, the same confidence that the music gave to me from the elders that I get inspiration from. It's the same way I hope my music and the music of my contemporaries impact on the younger generation to see that we continue to pass on the message of liberation, confidence, freedom, and justice, and we keep passing it in a non-violent way! You see, as a challenge back home the regime has tried to paint us as violent, as terrorists, because we speak the truth, and we continue to encourage people back home to speak the truth" [75].

¹⁰ During his half-hour set, next to performing tracks like "Born In Africa", the anti-corruption tune "Time Bomb", "By Far" and "Freedom", he also talked at length about his imprisonment and the despotism back home (a video of his performance is available at YouTube: <https://youtu.be/yjNzSwLfmIc>)

3.3 Miriam Makeba (South Africa)

“My life, my career, every song I sing, and every appearance I make, are bound up with the plight of my people. I have been denied my home. We have been denied our land” [76].

The history of South Africa is long and complex and cannot be presented here in full (cf. [77]). In contrast to Ethiopia (which was never colonized by European powers) and Uganda (which was colonized by the British who, apart from a few missionaries and administrative staff, did not settle there), Dutch settlers arrived in South Africa as early as 1652, followed by a massive influx of British settlers in 1820, whose desire for land, gold, and diamonds caused bloody wars between 1815 and 1915 [78]. After the Union of South Africa was created in 1910, the National Party, winning the 1948's elections, established the system of racial segregation that became known as Apartheid and would last until 1994 [79]. Any opposition to or protest and resistance against the system was met with brutal repression from the government, and newspapers, literature, and music were heavily censored [80, 81]. Founded as a protest movement against the discrimination of Black South Africans, the African National Congress (ANC) established itself as an important voice in the fight against Apartheid. Due to its growing influence both in South Africa and abroad, the ANC was banned in 1960 by the *Unlawful Organizations Act* [82], making any action within the country illegal and forcing its members into exile – a fate that many artists faced, too.

Zenzile Miriam Makeba was born in 1932 as the daughter of a Xhosa man, Caswell Makeba, and a Swazi woman, Christina Nomkomndelo. When she was 5 years old, her father died and she was sent to live with her grandmother in Pretoria. She had to leave school at age sixteen to work as a domestic servant and got pregnant 1 year later, giving birth to her only daughter Bongsi in 1950. Her first steps in music were taken in church and school choirs, but she later joined the band Cuban Brothers and her talent as a versatile singer became obvious [18]. Discovered by Nathan Mdlhede at one of the band's shows, she then joined the Manhattan Brothers and started touring the country, being exposed to arbitrary controls and detentions by white police [83].

In 1956, Makeba was approached by filmmaker Lionel Rogosin, who was casting young talents for a docufiction called “Come Back, Africa” about life in Apartheid-stricken townships that was released to great critical acclaim in 1959. He hired Miriam Makeba, who played herself in one scene of the movie, and asked her to come to the premiere screening in Venice. Once she reached Europe, residing in London for a couple of months, he also helped her obtain employment as singer in the then-famous “Steve Allen Show” in Los Angeles. Due to the critical images in the movie, which was secretly filmed in original South African locations, it was banned by the country's government, a ban that also extended to the actors. Thus, when Makeba's mother died in 1960 and she wanted to attend her funeral, she was denied access: “Her attempts to return to South Africa in order to be at the funeral aborted when her South African passport was revoked. This marked the beginning of her life as a political exile” [18].

In combination with the traumatic Sharpeville massacre in March 1960 [84] during which two of her uncles and one of her aunts were killed [83], as well as the mounting injustices the Apartheid system implemented (cf. [85]), this also marked the beginning of her political activism. Until then, apart from a few songs in her

repertoire that thematised the suffering of her people in indigenous languages like Xhosa or Sotho, Makeba had not been particularly outspoken against Apartheid, but a joint US-tour with Harry Belafonte, which included many press conferences and intellectual discussions about the subject and brought her in contact with the Black Civil Rights Movement in the US, made her “decide to do something” [83].

Subsequently, she spoke at the UN conference in 1963 as part of the “Special Committee of the United Nations against apartheid”, urging the members to stop sending weapons to South Africa, as they were turned against the Black population of the country. In response to her speech, the South African government officially declared her a criminal and banned all of her records [83]. In the same year, she performed at the inauguration of the Organization of African Unity (OAU) in Addis Ababa, establishing important contacts with several African leaders [ibid]. Especially the friendship with Guinea’s president Ahmed Sékou Touré proved helpful, as he, on several occasions, invited Miriam Makeba to live in his country should she ever wish to do so. She took up the offer in 1968 when, after marrying the Black Power/Black Panther activist Stokely Carmichael (cf. [86]), her popularity in the US declined, contracts and concerts were canceled, and she was put under F.B.I. surveillance [83].

Although she was able to live a comfortable life there, continuing to record and perform music¹¹, she was not entirely happy in Guinea: “My home is South Africa. And so I have to ask myself a terrible question: Will I ever find peace in my lifetime? Will I ever go home?” [76]. The effects of this continuous “homelessness” were also strongly felt by her daughter Bongie, who joined her mother to live in Guinea for several months at a time, but increasingly struggled with mental problems until her untimely death in 1985 [83]. Apart from this very personal impact of her continuous exile, she was also worried about her family members back home whom she had not spoken to in years, as “it could have unpleasant consequences for them if they directly call me or write to me” [83]. Additionally, Makeba had to face problems during her travels. Due to her closeness to president Touré, she was declared *persona ingrata* by Senegal’s government and denied access to perform there, and on several occasions, she had difficulties entering the USA [86].

The agony of living far from her home and loved ones only ended when Nelson Mandela, after he was released from prison in 1990, invited Makeba to return to South Africa. She gladly did so, and made Johannesburg her permanent residence [87], continuing to lend her voice to the underprivileged. Thus, she founded the “Makeba Centre For Girls” in Midrand in 1999 [88] and supported other creatives during charity concerts. Her last public appearance was in support of Roberto Saviano, an author threatened by the Camorra, in Italy on November 9th 2008 – shortly after her performance, she suffered a heart attack and died in hospital [89].

The impact she had on the world – musically, personally, and politically – is immense. Miriam Makeba was an African music icon well known for her ability to speak up against injustice, especially against the racist Apartheid system, through her music and public speeches. She was a freedom fighter and an activist, inspiring people across the world by revealing the socio-political realities in South Africa through her art and in her life. She defiantly brought solidarity and called for the world’s attention, deeply challenging and disturbing South Africa’s Apartheid regime. She supported the United Nations, serving as a Guinean delegate for several years, and won the Hammarskjöld Peace Prize in 1986. She played a leading role in sedimenting a

¹¹ According to Makeba, many of her songs were written by South African artists, who thus voiced their protest against Apartheid [83].

pan-African consciousness through her recordings and stage performances in diverse pan-African forums both within the continent and beyond. Siphso Mabuse organized an event called “Tribute to Miriam Makeba” in 2005, and in 2006, the “Miriam Makeba Centre For Performing Arts” was launched in Alice, Eastern Cape [90]. Several books tell her story, e.g. the autobiographies Makeba [76], Makeba & Hall [83], and Makeba & Mwamuka [91], as well as the children’s books by Mathieson [92] and Erskine [93].

Her musical contribution needs to be placed within the context of the broader struggle against Apartheid, by showing how music fuelled resistance against Apartheid’s tyranny by Black people. Finally, her music also helped Makeba in her very personal combat against feelings of loneliness and depression, as she stated in her autobiography: “The stage is the place where I feel most at home. There, I’m not in exile.” ([83], own translation).

4. Conclusion

This chapter has shown how the liberal expression of opinions – be it in song lyrics or during other public occasions – can severely infringe on the freedom as well as the mental and physical health of singers and musicians. These infringements come in the form of forced exile, as in the example of Miriam Makeba from South Africa; imprisonment and physical violence, as was the case with Bobi Wine from Uganda; or even death threats and the subsequent killing of Hachalu Hundessa from Ethiopia. None of these procedures is legally acceptable, both from a constitutional and a humanitarian point of view, and ought to be investigated and penalized. However, this noble wish for justice runs counter to the realities in the countries discussed here: while South Africa has overcome the dark chapter of Apartheid by now, this racist system was in full effect by the time Miriam Makeba pursued her career, and she had only exile to turn to. In Uganda, the ruling president resides over the police, the military, and the jurisdiction, thus making independent investigations virtually impossible, a situation that is similar in Ethiopia. Both states are among the 50 worst-rated countries on the Press Freedom Index, with Ethiopia at 130 and Uganda at 133 of 180 countries in total [94], which is a strong indication of the level of censorship present there. The governments misuse their power to “hush” and persecute their citizens in case they dare to criticize the ruling elite. What characterizes music censorship across the three case studies is that singers who openly criticize authoritarian governments are banned by state media. It “follows that, precisely because state media outlaws” the work of such singers, “their value and power in society increased considerably” [30]. Moreover, the state’s censorship and preclusion from airing in the national broadcasting outlets make artists’ work far more subversive, even if the contents of their music are not openly political. Our analysis further points to the cultural and political brokerage of musicians like Bobi Wine, whose music and celebrity offer them leverage to wield power and become political actors, but also reveals the limitations of this practice, as authoritarian regimes seek to control and co-opt the music industry. The murder of Hachalu Hundessa, the several imprisonments and physical mistreatment of Bobi Wine, and Miriam Makeba’s revoked citizenship exemplify how power and politics conspire and endanger musicians who sing back to systems of domination and oppression. As Asebe R. Debelo [46] further argues, killing, detaining, and forcing musicians into exile are often taken by authoritarian regimes as strategies for the destruction of the institutions of knowledge. However, the eradication aimed at is not so easy, especially since the advent of the internet and popular platforms where songs can easily be uploaded

and disseminated; tracks that are banned sometimes even spread faster because people are curious *why* they were banned. Artists are revered by their supporters in the sphere of political reform and future-making in Africa, and the more they suffer for the sake of their art, the more this reverence seems to spread (a hypothesis that needs to be corroborated by future research). Furthermore, imprisonment, murder, torture, detention, expulsion, or revoking basic human rights all imply how musicians do not just embody politics – they become body politics as well. As Côté states, “popular musicians, through their ability to use popular music and the fame brought about by their art, may constitute significant political actors” [2], and the above case studies demonstrate that popular music not only reveals politics, but rather it *is* politics too.

What, then, is the personal motivation behind musical activism, when the opinions they voice in their songs put the originators in such danger? One answer is given by Künzler & Reuster-Jahn: “In many countries, the musicians take a serious risk of persecution, while gaining in popularity and credibility among their audiences” [17]. While this might be one motive, a more important one is the artist’s personal conviction and his or her strong sense of justice. Asked why he chose to go the difficult path of political engagement instead of just being a singer and actor and leading a comfortable life, Bobi Wine answered in an interview with Al Jazeera: “I cannot pretend to be free and comfortable when Uganda is not! When the ghetto boys and girls whom I grew up with continue to die every day, when we lose 18 women in hospitals every day giving birth, we lose more than 300 children under the age of five (...). Now, having been lifted through this life and having been offered this opportunity to speak for them (...) I cannot be selfish to deny them that!” [60]. In an interview with the Deutsche Welle (DW) after receiving the Odaa Award for influential musicians, Hachalu Hundessa describes his motivation for singing: “(...) with music you analyze the political, social, economic, and the life of society. I personally feel happy when I sing resistance songs. Singing such songs is inside me since I am part of the [oppressed] society” [95].

Similarly, Miriam Makeba said in her speech at the UN in 1963: “I ask you and all the leaders of the world, would you act differently? Would you keep silent and do nothing if you were in our place? Would you not resist if you were allowed no rights in your own country because the color of your skin is different from that of the rulers, and if you were punished for even asking for equality?” [96].

Fortunately, today there are also examples of positive interaction between governments and artists in Africa. Maya Sona Jobarteh counts among the first women who have learned and publicly play the Kora, a traditional Western African instrument typically reserved for male musicians and griots. She has recently released her new album “Badinyaa Kunoo”, which includes a song about the responsibility of artists to be ambassadors for cultural and social positive change in society, and, putting her words to action, founded “The Gambia Academy” in 2015 [97]¹². In neighboring Senegal, Aisha Dème has founded the platform AgenDakar.com “dedicated exclusively to the promotion of art and culture in Senegal” [15], and other actively engaged artists can be found all over the continent. Also, NGOs continuously work with music for the betterment of underprivileged people, thus for instance the Friedrich Naumann Foundation launched the “Change Through Music” initiative with a big concert in 2021, including artists such as Bobi Wine, Bantu, Zolani Mahola, The Miagi Youth Orchestra, and MICM [98]. Another initiative worth mentioning is Artwatch

¹² “This Academy is therefore the first of its kind in The Gambia to deliver a mainstream academic curriculum at a high level, whilst also bringing the culture, traditions and history that belong to students, to the front and centre of their everyday education” [97].

Africa, which “aims to assert, promote and defend artist rights and freedom of creative expression for artists and cultural practitioners in Africa.” (it is a project of the Arterial Network “a dynamic Pan-African, a civil-society network of artists, cultural activists, entrepreneurs, enterprises, NGOs, institutions, and donors active in Africa’s creative and cultural sectors” created in 2007) [99].

These hopeful initiatives offer space for creative artistic expressions to be seen as “a means of helping people to learn about one another’s cultures, customs and languages” [30], about their everyday life experiences including discrimination and oppression [100] – and not as a threat to society. We close this article by calling for research on the connection between popular/political music, diasporic communities, and the (un-) making of politics and political regimes in Africa. There is also a need for research on how popular music decentres politics from its ‘formal’ spaces and contexts of parliament, civil society, and political parties into everyday life settings through analysis of the quotidian practices of worldmaking through music and songs. This includes studies of music activists’ biographies of struggles, the legacies they leave behind, and the inspirations they feed the world through their music. Most importantly, however, the violation of basic human rights associated with censorship measures needs to be documented and brought to the attention of independent jurisdiction.

Acknowledgements

The publication of this article would not have been possible without the generous funding of the Fritz Thyssen Stiftung in the form of a PostDoc Scholarship to Dr. Gardy Stein, and a fieldwork grant to Professor Tatek Abebe by the Norwegian Institute for Comparative Research in Human Culture, as well as the Open Access Fund of the Universität Hamburg, to all of which we are immensely grateful.

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References

- [1] LeVine M. Music and the Aura of revolution. *International Journal of Middle East Studies*. 2012;**44**(3):794-797 797
- [2] Côté T. Popular musicians and their songs as threats to National Security: A world perspective. *The Journal of Popular Culture*. 2011;**44**(4):732-754, p. 735, 739, 732. DOI: 10.1111/j.1540-5931.2011.00860.x
- [3] Weitzer R, Kubrin CE. Misogyny in rap music: A content analysis of prevalence and meanings. *Men and Masculinities*. 2009;**12**:3-29
- [4] Fredrickson BL, Roberts TA. Objectification theory: Toward an understanding of women's lived experiences and mental health risks. *Psychology of Women Quarterly*. 1997;**21**:173-206
- [5] Bouzouita K. Music of dissent and revolution. *Middle East Critique*. 2013;**22**(3):281-292
- [6] Eprile BT. Songs of Change: How Music Helped Spark the Arab Spring Revolutions in Egypt and Tunisia. Oberlin: Oberlin Politics Department. Honors Papers; 2017
- [7] Gabsi Z. Rap and Mizoued music: Claiming a space for dissent and protest in post-Arab spring Tunisia. *Sociological Research Online*. 2020;**25**(4):626-643
- [8] Marcus G. The gagging writs. *Reality*. 1987;**19**(3):8-10 8
- [9] Martin L, editor. *Les Censures dans le Monde: XIXe – XXe siècle*. Rennes: Presses Universitaires de Rennes; 2016
- [10] Drewett M. Rethinking popular music censorship in Africa. In: Martin L, editor. *Les Censures dans le Monde: XIXe – XXe siècle*. Rennes: Presses Universitaires de Rennes; 2016. pp. 331-339 336
- [11] Frère MS. Censure de l'information en Afrique subsaharienne francophone: la censure dans les régimes semi-autoritaires. In: Martin L, editor. *Les Censures dans le Monde: XIXe – XXe siècle*. Rennes: Presses Universitaires de Rennes; 2016. pp. 341-356
- [12] Korpe M. *Shoot the Singer! Music Censorship Today*. London: Zed Books; 2004
- [13] Devroop C. Music and exile: The making of culture and identity. *Focus*. 2011;**61**:3-12
- [14] Cloonan M, Drewett M, editors. *Popular Music Censorship in Africa*. London: Routledge; 2006
- [15] Network A. *How Free Is FREE? Reflections on Freedom of Creative Expression in Africa*. Cape Town: Arterial Network; 2016. p. 7
- [16] Kong L. Music and cultural politics: Ideology and resistance in Singapore. *Transactions of the Institute of British Geographers*. 2019;**20**:447-459 448
- [17] Künzler D, Reuster-Jahn U. President: Musical open letters as political commentary in Africa. *Africa Today*. 2012;**59**(1):89-113, p. 90ff. DOI: 10.1353/at.2012.0035
- [18] Odhoji BMO. The Miriam Makeba story. *Journal of New Poetry*. 2009;**6**:1-28 18ff
- [19] Onyebadi U. Political messages in African music: Assessing Fela

- Anikulapo-Kuti, Lucky Dube and Alpha Blondy. *Humanities*. 2018;7(129):1-19. DOI: 10.3390/h7040129
- [20] Abebe T. Do I Exist? Miktivism for Land Rights and Identity in Ethiopia. The ISS Blog on Global Development and Social Justice [Internet]. 2019. Available from: <https://issblog.nl/2019/06/20/creative-development-do-i-exist-miktivism-for-land-rights-and-identity-in-ethiopia-by-tatek-abebe/> [Accessed: June 26, 2023]
- [21] Abebe T, Aitken S. Oromo protest music, youth activism and the right to Addis Ababa. In: Abebe T, Dar A, Wells K, editors. *Routledge Handbook of Childhood and Global Development*. London: Routledge; 2023 (In press)
- [22] Small C. *Musicking: The Meanings of Performing and Listening*. Middletown: Wesleyan University Press; 1998. p. 213
- [23] Asante MKJ. *It's Bigger than Hip Hop: The Rise of the Post-Hip-Hop Generation*. New York: St. Martin's Press; 2009
- [24] Williams GT. *Artivism: The Artists and Artwork Fighting for Social Change*. Sound Of Life [Internet]. 2022. Available from: <https://www.soundoflife.com/blogs/experiences/artivism-artists-artwork-social-change> [Accessed: 2023-06-15]
- [25] Milohnić A. *Artivism*. Transversal 3. 2005. Available from: <http://www.eipcp.net/transversal/1203/milohnic/en> [Accessed: 2023-06-15]
- [26] Sandoval C, Latorre G. Chicana/o Artivism: Judy Baca's digital work with youth of color. In: Everett A, editor. *Learning Race and Ethnicity: Youth and Digital Media*. Cambridge, MA: The MIT Press; 2008. pp. 81-108. DOI: 10.1162/dmal.9780262550673.081
- [27] Ruiz-Cabrera S. Political resistance in Africa through art. In: Olazábal ID, González EA, editors. *Africa Report 2020: Transformations, Mobilization and Continuities*. Madrid: Fundación Alternativas; 2020. pp. 71-80
- [28] Rose J, Gikunda K, editors. *#defyhatenow – Social media hate speech mitigation*. In: *Cameroon Field Guide, Pilot Edition 2019-2020*. Berlin: r0g_agency; 2020
- [29] Brighton A, editor. *Artivism in the Horn of Africa: Impact and Recommendations*. London: British Council; 2018
- [30] Marye HS. Ityopyawinnät and Addis Abäba's popular music scene. *Aethiopica*. 2019;22:96-123 p. 97ff
- [31] Urbain O, editor. *Music and Conflict Transformation: Harmonies and Dissonances in Geopolitics*. I.B. Tauris: London, NY; 2007
- [32] O'Connell JM, Castelo-Branco SE, editors. *Music and Conflict*. Illinois: University of Illinois Press; 2008
- [33] O'Connell JM. Music in war, music for peace: A review article. *Ethnomusicology*. 2011;55(1):112-127
- [34] Hintjens H, Ubaldo R. Music, violence, and peace-building. *Peace Review*. 2019;31(3):279-288. DOI: 10.1080/10402659.2020.1735163
- [35] Savoy B. *Africa's Struggle for its Art: History of a Postcolonial Defeat*. Princeton: Princeton University Press; 2022
- [36] Okeke-Agulu C. *Postcolonial Modernism. Art and Decolonization in Twentieth Century Nigeria*. Durham: Duke University Press; 2015
- [37] Clark MK, Koster MM, editors. *Hip Hop and Social Change in Africa: Ni Wakati*. Lexington Books: Lexington; 2014

- [38] Krings M, Simmert T. African popular culture enters the global mainstream. *Current History*. 2020;182-187
- [39] Conteh M, Nelson CJ. How Afrobeats is Making the World listen. *Rolling Stone*. [Internet]. 2022. Available from: <https://www.rollingstone.com/music/music-features/afrobeats-global-rise-1282575/> [Accessed: June 13, 2023]
- [40] Schneidermann N. Ugandan music stars between political agency, patronage, and market relations: Cultural brokerage in times of elections. *Nordic Journal of African Studies*. 2020;29(4):1-19 p. 8ff
- [41] Schneidermann N. Removing a dictator. *Africa Is a Country*. [Internet]. 2021. Available from: <https://africasacountry.com/2021/01/removing-a-dictator> [Accessed: June 21, 2023]
- [42] Kagungulu-Mayambala R. Music and human rights in Africa: The role of music in the promotion of human rights in Uganda. In: Adeola R, Nyarko MG, Okeowo A, Viljoen F, editors. *The Art of Human Rights: Commingling Art, Human Rights and the Law in Africa*. Cham: Springer; 2019. pp. 143-152 p. 148
- [43] Mukhtar U. Ethiopia: Patriotism, Nationalism and State Dimensions. [Internet]. 2020. Available from: <https://carrosomali.blogspot.com/2020/07/ethiopia-patriotism-nationalism-and.html> [Accessed: June 29, 2023]
- [44] Mollenhauer SM. Millions on the Margins: Music, Ethnicity, and Censorship among the Oromo of Ethiopia [Thesis]. Riverside: University of California; 2011
- [45] Dibaba AT. *Ethnography of Resistance Poetics: Power and Authority in Selale Oromo Folklore and Resistance Culture, Ethiopia* [Thesis]. Northeast Africa: Indiana University; 2015
- [46] Debelo AR. *Jirra: Oromo protest songs As Technologies of Resistance against Authoritarianism in Ethiopia. African Identities*. 2023 [forthcoming]
- [47] Ali G, M, Birra M. Artist, activist and an embodiment of our lived reality in the past fifty years. In: Birra L, Hassen M, editors. *A Fifty Year Journey for the Love of Music and his People - Ali Birra. Ali Birra's Autobiography* North Charleston: CreateSpace; 2013. pp. 96-112
- [48] Weber TJ. *Likkle but Talawah (Small but Mighty): Reggae Music, Globalization, and the Birth of a Social Movement* [Thesis]. Bowling Green: Bowling Green State University; 2000. p. 117
- [49] Abebe T. Lost futures? Educated youth Precarity and protests in the Oromia region, Ethiopia. *Children's Geographies*. 2020;18:584-600
- [50] OPride. *OPrides Oromo Person of the Year 2017: hachalu Hundessa*. [Internet]. 2017. Available from: <https://www.opride.com/longform/opride-oromo-person-year-2017-haacaaluu-hundeessaa/> [Accessed: June 21, 2023]
- [51] Lefort R. The 'Ethiopian Spring': Killing is not an answer to our grievances. *Open Democracy*. [Internet]. 2016. Available from: [https://www.opendemocracy.net/ren-lefort/ethiopian-spring-killing-is-not\[1\]answer-to-our-grievances](https://www.opendemocracy.net/ren-lefort/ethiopian-spring-killing-is-not[1]answer-to-our-grievances) [Accessed: October 15, 2016]
- [52] OMN. *Keessummaa – Wellisaa Hacaaluu Hundeessaa*. [Internet]. 2020. Available from: <https://www.youtube.com/watch?v=ERAHOGwogCg> [Accessed: June 20, 2023]

- [53] BBC News. Hachalu Hundessa: Deadly Protests Erupt after Ethiopian Singer Killed [Internet]. 2020. Available from: <https://www.bbc.com/news/world-africa-53233531> [Accessed: June 21, 2023]
- [54] Allo A. The poetics and politics of Oromo resistance. [Internet]. 2020. Available from: <https://www.opendemocracy.net/en/poetics-and-politics-of-oromo-resistance/> [Accessed: June 20, 2023]
- [55] Garomsa G. Wal Agarra [Internet]. 2021. Available from: <https://youtu.be/dAT8rVzbpBw> [Accessed: July 7, 2023]
- [56] Khadir S. The Legacy of Haacaaluu Hundeessaa [Internet]. 2021. Available from: <https://youtu.be/xNEPj-rrzM8> [Accessed: July 7, 2023]
- [57] Aga LK. Xalayaa Haacaaluu Hundeessaaf - Lataa Qana'ii Aagaa [Internet]. 2021. Available from: <https://youtu.be/JslD2Gm0m-4> [Accessed: July 7, 2023]
- [58] Gemechu T. Bara Bara [Internet]. 2022. Available from: <https://youtu.be/QtUhw66cEHM> [Accessed: July 7, 2023]
- [59] Hachalu Hundessa Foundation [Internet]. Available from: <https://hachaluhundessaaward.org/> [Accessed: July 7, 2023]
- [60] Al Jazeera 2018. Bobi Wine: Defiant after torture: Talk to Al Jazeera [Internet]. 2018. Available from: <https://youtu.be/MOgDeFdYJ4w> [Accessed: June 21, 2023]
- [61] Reid RJ. A History of Modern Uganda. Cambridge: Cambridge University Press; 2017
- [62] Wilkins S, Vokes R, Khisa M. Briefing: Contextualizing the Bobi wine factor in Uganda's 2021 elections. *African Affairs*. 2021;120(481):629-643, p. 630ff. DOI: 10.1093/afraf/adab024
- [63] UG Muziki. Bobi Wine [Internet]. Available from: <https://www.ugmuziki.com/artists/bobi-wine> [Accessed: June 29, 2023]
- [64] The Fader. Interview with Bobi Wine [Internet]. 2009. Available from: <https://youtu.be/Q0JVQ8bqXg> [Accessed: June 21, 2023]
- [65] True A. Bobi Wine – Changes. Interview for I Am Hip-Hop [Internet]. 2019. Available from: <https://youtu.be/sZ5a7HtXkq8> [Accessed: June 21, 2023]
- [66] Borthwick S. Positive Vibrations: Politics, Politricks and the Story of Reggae. London: Reaktion Books; 2022
- [67] Big Eye Uganda. Bobi Wine confirms his "Dembe" song was banned [Internet]. 2016. Available from: <https://bigeye.ug/bobi-wine-confirms-his-dembe-song-was-banned/> [Accessed: June 21, 2023]
- [68] Jennings L. Playing out injustice: Ugandan songwriter and politician Bobi wine talks about how his lyrics have inspired young people to stand up against injustice and how the government has tried to silence him. *Index on Censorship*. 2019;48(2):77. DOI: 10.1177/03064422019858299
- [69] The Economist. The arrest of Bobi Wine has shaken Uganda [Internet]. 2018. Available from: <https://www.economist.com/middle-east-and-africa/2018/08/23/the-arrest-of-bobi-wine-has-shaken-uganda> [Accessed: June 21, 2023]
- [70] Yunus Z. Exclusive interview with Ugandan MP Bobi Wine. BBC News Africa [Internet]. 2018. Available from: <https://youtu.be/3X8hCcc1y8M> [Accessed: June 21, 2023]
- [71] Al Jazeera. Museveni declared winner of disputed Uganda presidential election

- [Internet]. 2021. <https://www.aljazeera.com/news/2021/1/16/ugandas-museveni-declared-winner-of-presidential-election> [Accessed: June 21, 2023]
- [72] Time Magazine. Bobi Wine [Internet]. 2019. Available from: <https://time.com/collection/time-100-next-2019/5718843/bobi-wine/> [Accessed: June 21, 2023]
- [73] Movie Pilot. Bobi Wine – Ghetto President [Internet]. 2022. Available from: <https://www.moviepilot.de/movies/bobi-wine-ghetto-president> [Accessed: June 21, 2023]
- [74] Monitor. Bobi Wine's family in fear as driver is shot dead in Arua [Internet]. 2018. Available from: <https://www.monitor.co.ug/uganda/news/national/bobi-wine-s-family-in-fear-as-driver-is-shot-dead-in-arua-1773332> [Accessed: June 26, 2023]
- [75] TVJ Smile Jamaica. Interview with Bobi Wine [Internet]. 2019. Available from: <https://www.youtube.com/watch?v=XktdQBvFvU> [Accessed: June 21, 2023]
- [76] Makeba M. Makeba: My Story. New York: NALBooks; 1978 p. 1ff
- [77] Ross R. A Concise History of South Africa. Cambridge: Cambridge University Press; 2008
- [78] South African Government. History [Internet]. Available from: <https://www.gov.za/about-sa/history> [Accessed: June 22, 2023]
- [79] African Union. The Apartheid [Internet]. Available from: <https://au.int/en/auhrm-project-focus-area-apartheid> [Accessed: June 22, 2023]
- [80] McDonald PD. The Literature Police: Apartheid Censorship and its Cultural Consequences. Oxford: Oxford University Press; 2009
- [81] Mixtapes. Apartheid Censorship of Popular Music [Internet]. Available from: <https://mixtapes.org.za/series/apartheid-censorship-of-popular-music/> [Accessed: June 22, 2023]
- [82] Mathews AS. Law, Order and Liberty in South Africa. Kapstadt: Juta; 1971. p. 79
- [83] Makeba M, Hall J. Homeland Blues: ein farbiges Leben. München: Goldmann; 1988
- [84] Lodge T. Sharpeville: An Apartheid Massacre and its Consequences. Oxford: Oxford University Press; 2011
- [85] Jacobs S. South African music is more than Graceland. Africa Is a Country [Internet]. 2010. Available from: <https://africasacountry.com/2010/06/theres-more-to-south-african-music-than-graceland> [Accessed: June 23, 2023]
- [86] Fleming T. A marriage of inconvenience: Miriam Makeba's relationship with Stokely Carmichael and her music career in the United States. Safundi. 2016;17(3):1-27. p. 22. DOI: 10.1080/17533171.2016.1176720
- [87] South African History Online. Miriam Makeba [Internet]. Available from: <https://www.sahistory.org.za/people/miriam-makeba> [Accessed: June 27, 2023]
- [88] Miriammakeba.org. Welcome To Miriammakeba.org (About) [Internet]. Available from: <https://miriammakeba.org> [Accessed: 2023-06-27]
- [89] Cowell A. Miriam Makeba, 76, Singer and Activist, Dies. The New York Times [Internet]. 2008. Available from: <https://www.nytimes.com/2008/11/11/world/africa/11makeba.html> [Accessed: June 27, 2023]
- [90] Mojapelo M. Beyond Memory: Recording the History, Moments and

Memories of South African Music. Cape Town: African Minds; 2008. p. 265

[91] Makeba M, Mwamuka N. Makeba: The Miriam Makeba Story. Parktown: STW Publishers; 2004

[92] Mathieson J. Singing the Truth: The Story of Miriam Makeba. Cape Town: Book Dash; 2014

[93] Erskine K. Mama Africa! How Miriam Makeba Spread Hope with her Song. New York: Macmillan Publishing; 2017

[94] Reporters Without Borders. Press Freedom Index [Internet]. 2023. Available from: <https://rsf.org/en/index> [Accessed: June 27, 2023]

[95] Bula MY. Ethiopia: The killing of Hachalu Hundessa cuts deep [Internet] 2020. Available from: <https://www.dw.com/en/ethiopia-the-killing-of-hachalu-hundessa-cuts-deep/a-54024538> [Accessed: June 22, 2023]

[96] The World. Miriam Makeba's historic speech remembered [Internet]. 2008. Available from: <https://theworld.org/stories/2008-11-10/miriam-makebas-historic-speech-remembered> [Accessed: June 28, 2023]

[97] The Gambia Academy [Internet]. Available from: <https://thegambiaacademy.org/> [Accessed: June 28, 2023]

[98] Change Through Music Concert [Internet]. 2021. Available from: <https://youtu.be/P7Y1LbCW1Ls> [Accessed: June 28, 2023]

[99] Artwatch Africa. Description [Internet]. Available from: <http://www.arterialnetwork.org/artwatch/description/> [Accessed: June 26, 2023]

[100] Abebe T. Storytelling through popular music: Social memory, reconciliation, and intergenerational healing in Oromia/Ethiopia. *Humanities*. 2021;**10**(2):70. DOI: 10.3390/h10020070

Section 3

Justice and Legality

Categorization and Normalization of the (In)Formal Settlements in the Contested Greenbelts of the Greater Durban Area (South Africa)

Sibonakaliso S. Nhlabathi

Abstract

The South African housing and human settlements policy prescribes and categorizes housing standards for urban areas. Thus, the EThekweni (Durban) metropolitan municipality provides housing to its residents, in terms of the mandate and guidelines of the housing and human settlements policy. But, owing to rapid urbanization, the municipality has not been able to keep abreast of the housing demands. Hence, the (in)formal housing movements and activists have mobilized access to housing of their standards, in the highly contested green belts in the Greater Durban area. This pressure of (in)formal housing has resulted in the municipality relaxing the standards and categories of suitable housing. So, (in) formal settlements have mushroomed in Durban. Hence, this paper explored the processes of categorization and normalization of the (in)formal settlements in the contested greenbelts of the Greater Durban area. The results established that the development of (in)formal settlement in the EThekweni municipality represented a nexus of actors with highly conflicting interests. Therefore, dealing with the (in) formal settlements in the EThekweni municipality requires genuine, innovative, and ingenious leadership.

Keywords: (in)formal housing movements, categorization, normalization, Abahlali baseMjondolo, EThekweni municipality, shack lords

1. Introduction

In South Africa, (in)formal settlements and shanty towns have their genesis in policies of segregation and the subsequent apartheid form of economic, social, and spatial organization. The apartheid system illegalized the permanent settlement of Black people in cities. But some Black people found ways to remain in cities. This gave rise to the development of (in)formal settlements and shanty towns on the outskirts and peripheries of cities. Dwellers of the (in)formal settlements used any

materials available to build the shacks in which they lived. These settlements traditionally lacked basic services and amenities. But the ascendancy of the government of the majority, in South Africa, in 1994, put an end to the institutionalization of the apartheid system of social and spatial organization. As a consequence of the release of the pent-up drive to urbanize, major cities and towns experienced rapid growth of new urban dwellers. These comprised South African rural-urban migrants, and immigrants, mostly, from Southern Africa and some from across the continent of Africa. The institutional failures rendered local municipalities unable to cope with the sudden influx of new urban residents who needed economic opportunities, housing, services, and amenities. In this way, (in)formal settlements and shacks found their way within and around major cities and towns. The greenbelt areas and other undeveloped areas of cities quickly filled up with (in)formal settlements and shacks.

The greenbelts in the South African urban planning scene, evolved from the influence of the British and American town-planning approaches and practices of the twentieth century. During the early British and American town-planning system, the town developed as a place where people lived and worked, and the countryside by contrast was a place of nature, agriculture, and recreation. This conceptualization informed the development of greenbelts. This planning concept is also easily associated with Ebenezer Howard's ideas of Garden City [1]. Evolving from the town planning principles of the UK, the concept of greenbelts was first used in the then Natal (a province in South Africa) in the regional plans for Durban and Pietermaritzburg, where this concept was termed "the Urban Fence", in the early twentieth century [1]. Thus, with the advent of apartheid in the 1950s city, planning became modeled on Ebenezer Howard's Garden City concept. Cities became self-contained communities surrounded by green belts. The apartheid form of planning used greenbelts to create discrete and racially defined communities [2]. According to Bigon [3], the garden city concept and a zoning system in colonial Africa enabled colonial authorities to maintain strict control over indigenous laborers. The system was meant to prevent permanent African urban residence. Thus, greenbelts have served to promote and sustain racial segregation.

The green belts have since served as sites of major contestation and tensions in the landscape of major cities and towns in South Africa. It is here that (in)formal settlements and shacks have mushroomed. They have emerged to be the nexus of clashing interests. This paper uses the construct (in)formal settlements and not the normal informal settlements. This is done to avoid entanglement in the subjectivities that could be associated with the informal settlements construct. Thus, this paper explores the processes of categorization and normalization of the (in)formal settlements in the contested greenbelts of the Greater Durban area.

The next two sections of this paper review the relevant literature. This is followed by the methods and materials. Then, the discussion turns to the dynamics and processes of (in)formal settlements in the Greater Durban area. This paper concludes by unpacking all the elements in the development of (in)formal settlements in the Ethekwini municipality.

2. Conceptual framework: categorization, contestations, and normalization

The categorization concept provides an appropriate framework for the analysis of contestations over space. But different disciplines explore this concept according to their perspectives. Management scholarship has used categorization to understand a

firm's external environment and the position of the firm therein [4]. In psychology, the categorization concept has been theorized differently in different traditions. There are conventional approaches, for example, the social categorization approaches and the discursive approaches [5]. Since this paper explores the contestations over space, it is inclined toward the critical and discursive perspective on categorization and normalization. This is discussed in the next paragraphs.

Categorization is not value-free. But it serves to impose some measure of coherence on the social world by partitioning items into groups [4]. The phrase imposes some coherence would imply that the world or social processes are not coherent. While social processes are dynamic and contingent, categorization assumes a stable, singular, and universal form of their representation [6]. Categorization forms the basis of stereotyping and subsequently profiling. Stereotyping together with profiling influences how people from the same group behave toward other people who belong to other groups [7]. Further, some categories systematically privilege others, and in the process stratify members based on certain attributes [4].

Related to categorization is the normalization concept. Normalization concerns the introduction of new normative order or new norms. These norms constitute a set of discursive strategies that perpetuate patterns of representing social actors, processes, and issues [8]. So, people use discursive practices to render something a norm. For example, positivism tends to reduce processes to numbers and tables, which could be used to stereotype or marginalize certain social actors [9]. Thus, the marginalization of certain social actors could eventually become a norm. The concept of normalization has its roots in the work of Michel Foucault [10]. Thus, drawing from Foucault, Krzyżanowski ([8], p. 437), argue that normalization operates in a top-down way and aims to subsume others to its logic and strategic aims. Central to normalization is the process that deals with the power of classification. This uses existing societal categories such as age, gender, ethnicity, and religion to normalize certain societal practices [9]. This inadvertently or purposefully renders self/others visible/invisible. Taylor ([11], p. 45), also, draws from Foucault to argue that the idea of the norm is a modern concept and is associated with the modern relations of power. According to Taylor ([11], p. 46), the process of normalizing norms works by masking their effects of power. Through the normalization process subjects are divided into two mutually exclusive groups with predetermined appropriate behaviors that they are encouraged to repeat over and over again. These eventually become "normal", inevitable, and therefore immune to critical analysis. The rise of modernity came with a situation, where sovereign power found itself unable to effectively control all aspects of increasingly complex societies. The result was that certain techniques of power which up to that point had been employed only within the religious context were generalized to society more broadly. According to Taylor ([11], p. 49), Foucault sees the norm as being at the heart of these techniques of modern power.

Thus, the above literature has explored the categorization and normalization concepts. It has shown that categorization and normalization have the othering effect. These concepts frame the analysis of this paper. But the next section discusses scholarly work that has been based on these concepts.

3. Related research

The concepts of categorization and normalization, which are associated with critical discourse analysis and in Foucauldian informed inquiry, provide very useful

frames for analyzing the complexity of social processes. Scholarships have used these concepts in a variety of disciplines. O'Doherty and Lecouteur [5] have employed the categorization concept to understand the representation of people entering Australia as asylum seekers. This study focuses on the discursive practices that could constitute the legitimizing of the oppressive or marginalizing practices in Australia. Murto [12] has explored gender categorization in the representational market. This study contributed to gender research in marketing and consumer behavior in that it shifted attention from advertising representations to representational market practices. Regarding the normalization concept, MacDonald and Gibson [13] studied normalization and stigma on parents of children requiring complex care.

In South Africa, Monyeke et al. [14], have used the categorization concept in health care. But they note the possible ambivalence of this concept. It could have some undertones, where the rural category is associated with Black people and the urban associated with white people. Nell [15] draws the concept of categorization from cognitive psychology, of which social identity theory is its part, to explore self-categorization in religion. The psychological framework also touches on the concepts of depersonalization and self-stereotyping. Hermanson [16] uses categorization from the religious framework. This concept is essential for the understanding of biblical metaphors. Buchholz [17] deals with the tension associated with categorizing the Christian religions given global vis-a-vis local realities. Global categories could ignore the self-understanding of local Christian peculiarities. Categorization is open to the imposition of certain beliefs and thinking on the local realities.

The above discussion has briefly reviewed literature that has used the categorization and normalization concepts in the understanding of different processes. The next discussion is on the methods and materials of this paper.

4. Methods and materials

This paper explores processes of categorization and normalization of the (in) formal settlements in the contested greenbelts of the Greater Durban area. **Figure 1** shows the location of the study area.

Objectives of this paper are to:

- How (in)formal settlements have spread in the Greater Durban area over the years.
- Find out if (in)formal settlements in the greenbelts are discursively constituted by the socio-economic system that is supposed to facilitate their eradication.
- Establish if the (in)formal settlements category (discursive construct) is not marginalizing.
- Find out if (in)formal settlements are not a naturalized category that is supportive and a reflection of the networks of power within the municipality.
- Find out if the (in)formal settlements category does not preserve their essentialism, and disavows reading them as mutually constituted in power networks.

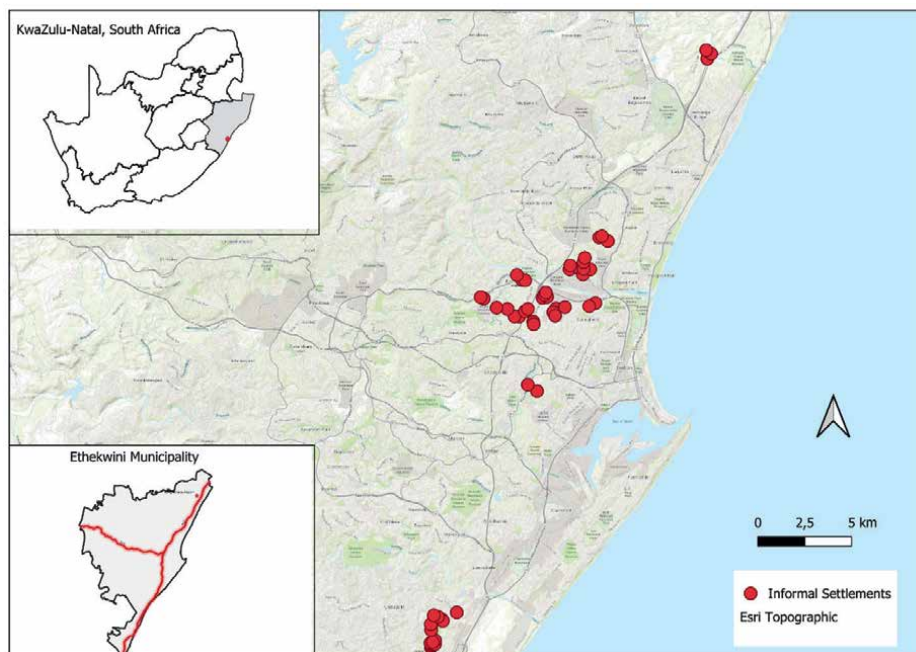


Figure 1.
(In)formal settlements—Greater Durban area. Source: Author.

This section reviews literature that has a bearing on the research methods of this paper. This paper used qualitative data. According to Moalusi [18], qualitative research uses text and not numerical data and analyzes those data in their textual form rather than in statistics to convert them to numbers. Most of the data sources of this paper were government policy documents and newspaper articles. Several studies have used newspapers as the sources of their data. Most of the studies that have used or analyzed newspapers tended to focus on issues that relate to social ills. For example, Guler et al. [19] used national newspaper articles to study the critical views of students about news items included in the media. Tausczik et al. [20] used weblogs (blogs), newspaper articles, and Wikipedia visits to study how public anxiety about H1N1 developed over the first 2 weeks following its outbreak. Cherbonneau and Copes [21] examined the types of carjacking that are reported in newspapers, the stress was on the emphasis on the amount of coverage newspapers gave to each case. Luisi et al. [22] conducted a content analysis of newspaper articles to understand how the U.S. media framed the Ebola epidemic. Welch et al. [23] administered content analysis on newspaper articles on crime appearing in major newspapers. Werner et al. [24] examined how the Hebrew and Arabic online newspapers portrayed Alzheimer's disease and persons with Alzheimer's disease. This study recognized the value of using online newspapers and media in improving knowledge and awareness about AD and dementia. Some research has examined trends and directions in online newspaper publications. Boczkowski [25] reviews the development and use of online newspapers for research. This study, also, argues that there needed to be more reviews because both the object of inquiry and the inquiry itself are far from being stable. Peng et al. [26] have surveyed the trends in web newspaper publishing, by looking into various aspects of operations such as advertising, readership, content, and services.

In the use of newspapers as sources of data, the study was mindful of the following: they are prone to bias; secondly, they may be sensational as they look for news mostly of a negative sort to ramp up their circulation numbers [27]. It is for this reason that this paper tried to represent the claims and views of different actors and how they are reconstructed in the (in)formal settlements discourse [28]. Therefore, apart from presenting the side of authority, this paper also considered the views and the argument of the (in)formal settlement dwellers.

This section has briefly reviewed the methods of research that similar studies have used. It showed that government documents and newspaper articles have been widely used as sources of data in research. It further showed that newspapers have tended to be used in researching issues that relate to social ills. So, the discussion continues to present the findings of this study.

5. Findings of the study

5.1 Housing norms and standards in South Africa

The department of human settlements (formerly, the Department of Housing) has set guidelines for habitable housing in South Africa. Some of these are discussed herein. There needed to be bulk and connector services that are located outside the boundaries of the project site. Further, the guidelines specify the type of material to be used in the house construction and the geotechnical aspects, which include stormwater drains, that the appropriate site should meet. These are provided by the municipalities. The size of the house is 40 square meters two-bedroom house, a living room that combines with a kitchen, it has to have a toilet and a shower. The municipality of the area supplies the board for electrical installation. All other aspects of the house, such as plumbing and water pressure, are accommodated in the guidelines (Department of Human Settlements [29]). So, in this way, these guidelines categorize housing that is considered to be normal in urban areas.

The next section is about the development of (in)formal settlements and shacks in the Greater Durban area.

5.2 Growth of (in)formal settlements in the greater Durban area

(In)formal settlements have grown considerably in the major South African cities since the end of apartheid. So, by mid-2022, there were 2700 (in)formal settlement sites in South Africa. This represented 15% of dwellings in major cities, thus about 83.4% of households in the metropolitan areas lived in what is considered formal dwellings. The majority of the (in)formal settlements were located in unsuitable land that is prone to disasters [30]. There were 580 (in)formal settlement sites that comprised approximately 287,000 households in the Durban area [31]. Fifty percent of the Durban dwellers of (in)formal settlements originate from the province of KwaZulu-Natal. The second and third contributors to (in)formal settlements of the city are the Eastern Cape and the Gauteng provinces respectively. And 15 percent of the residents of the city are migrants from outside South Africa [32]. Most migrants to the (in)formal settlements originate from rural areas, which are perceived not to be offering any job prospects or any other economic opportunities [33]. Residents of (in)formal settlements tolerate their precarious conditions as they have to be closer to

jobs, hospitals, schools, and other amenities [34]. As **Figure 1** shows, most (in)formal settlements occur in the northern part of the city. This could be attributed to two factors, that is, the availability of open spaces in the form of green belts, and, also, land which was considered not suitable for development, but which shack dwellers have put to use.

The (in)formal settlements have grown rapidly in the Durban area (**Figure 2**).

The Foreman Road has about 3000 (in)formal settlements in an area of 0.08 km². According to the Durban metro, it would take 90 years to eradicate (in)formal settlements in this metro [35]. Most (in)formal settlements develop out of land invasion. According to the metro, the Prevention of Illegal Eviction Act, and the Unlawful Occupation of Land Act 19 of 1998 as amended in 2008 has loopholes that lead to mushrooming of (in)formal settlements in cities [36]. This Act legalizes building structures, for example, shacks, huts, or tents, and prohibits eviction of people who occupy such structures [37].

5.3 Dynamics of the (in)formal settlements

5.3.1 Informal settlements as undesirable

Dwellers of (in)formal settlements tend to give names that are emotive to their settlements. There is the Lusaka (in)formal settlement. This name conjures feelings and emotions of fighting for freedom. During the height of the apartheid repression, freedom fighters were exiled to Lusaka in Zambia. There is Chris Hani (in)formal settlement. Chris Hani is one to foremost freedom fighters during the apartheid era. Other notable (in)formal settlement names include Dakota, Kennedy Road, Reservoir

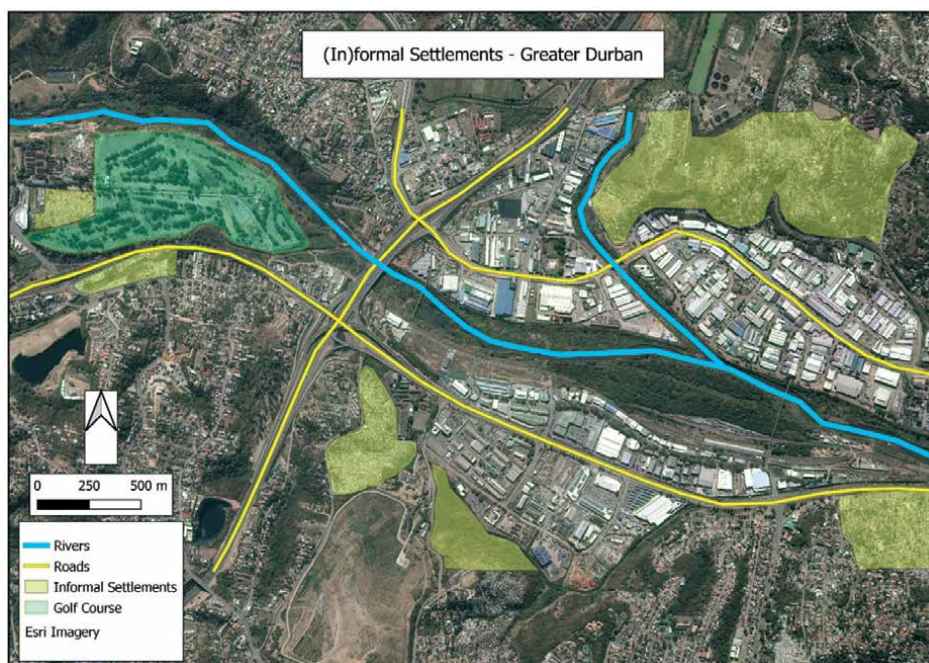


Figure 2.
Some (in)formal settlements—Greater Durban area. Source: Author.

Hills, and many others. (In)formal settlements in Durban like others in big cities occasionally suffer massive fires, which sweep through the settlement leading to devastation in their wake. These settlements have recently experienced devastation as a result of raging fires at the Dakota informal settlement, south of Durban [38]; a fire broke up at the Kennedy Road informal settlement [39]. Other (in)formal settlements with less emotive names include the Bottlebrush Settlement in Chatsworth, Durban [40] and Reservoir Hills (In)formal Settlement [41].

Sometimes, the relationship between shack dwellers, the residents of established suburbs, and the state is fraught with tension. The ratepayers view shacks in their vicinity as causing property valuations to drop drastically, raise the rate of crime, and increase competition for water and electricity [40]. The ratepayers' associations have, in the other case, opposed the plan by the Ethekwini municipality to erect temporary housing and transit camps for shack dwellers displaced by floods in Durban. The ratepayers argue that by allowing the erection of temporary camps there would be complicit in denying the people their right to health, stable, and sanitary conditions [42]. Ratepayers' associations have also clashed with the dwellers of (in)formal settlements on several other issues. Illegal electricity connections by shack dwellers have damaged electricity supplies to formal residential areas, leaving these areas without electricity for days at other times. Shack dwellers appear to act without any regard for the concerns of the ratepayers about the impact of shacks in their neighborhood:

"...We get insulted by the shack dwellers and they say we can do nothing to them. We must pay rates and be abused" (Source: Dawood [41]).

Another ratepayer had this to say:

"The (in)formals have thrown so much dirt on the road... and nobody from the municipality gives a damn to clear it but happily takes our rates every month. Is this how ratepayers are going to live with the new temporary squatter camps?" (Source: Dawood [41]).

But shack dwellers maintain that circumstances force them to live in shacks. These lack services such as ablution facilities, water, and electricity. Circumstances force them to resort to illegal electricity connections as the Ethekwini municipality does not connect the shacks to the grid [40]. The credit market also does not consider shack dwellers as they earn very little to qualify for housing and other loans [40]. The municipal housing program, the reconstruction and development program, commonly called the RDP last built houses in the (in)formal settlement in 2009 [40].

Some members of the ratepayer's community are sympathetic to the plight of the shack dweller:

"...If you remove the shacks, where are they going to go? It is too big of an issue and needs to be sorted out by the government...I, therefore, believe that we should embrace the people of the settlement...Not everyone is a criminal, and it is incorrect to tarnish these people..." (Source: Pillay [40]).

The discourses on (in)formal settlements have evolved. The Ethekwini municipality appears to treat (in)formal settlements as undesirable. The program of installation of electricity in the (in)formal settlements seems to serve the purpose to control their

spread. The deputy chairperson of *Abahlali baseMjondolo* (A shack dweller's social movement: Translated in English as Those who live in shacks) has noted that his shack has, since the year 2018, not been electrified even though some shacks in their (in)formal settlement have received electricity. The deputy chairperson of *Abahlali baseMjondolo* stated that:

"There was no transparency (by the municipality) on...how many shacks were to benefit (from electricity). What happened is that electricity was installed in one shack, then they skipped the next two, and so on" (Source: Damba-Hendrik [35]).

The deputy chairperson interpreted this as an act of punishment by the municipality as he was a leading activist for shack dwellers. Another shack dweller stated:

"...I am one of the people who started this informal settlement but electricity was not installed in my shack" (Source: Damba-Hendrik [35]).

Shack dwellers also considered their (in)formal settlements to be subjected to poor sanitation. Though dwellers of (in)formal settlements qualified for RDP houses (government-funded low-cost housing) not a single person in the informal settlements has been allocated to such a house [35].

According to the mayor of the Ethekewini municipality, the municipality had not considered informal settlements, "part of the plan" for the development of the city. The influx of people and the subsequent mushrooming of (in)formal settlements in the city harmed the plans of operation of the city. The mayor of the Ethekewini municipality had an appeal to what is termed lawmakers to amend the Prevention of Illegal Eviction and the Unlawful Occupation of Land Act 19 of 1998 as amended in 2008. This Act had loopholes that lead to the mushrooming of the (in)formal settlements [36].

5.3.2 Shack lords and the spread of (in)formal settlements

Another element in the development of (in)formal settlements is that of the so-called *shack lords*. These organized the invasion of empty land and built shacks that they rented out to desperate tenants. Depending on the structure of the shack, the rentals ranged between R200 to R800 (\$10 to \$42) per month [43, 44]. One shack lord had 17 dwellings on which they rely. This shack lord had taken over "the business" of letting-out shack from his mother [43]. The demand for shacks was high. On top of this, there was also the challenge of an ever-growing demand for housing. Some people who had been allocated houses rented out those houses and moved to another settlement with the hope of getting another house [45].

5.3.3 (In)formal settlements and the natural and man-made elements

(In)formal settlements experience frequent outbreaks of fire. These sweep through the settlements causing havoc in human lives and property. The fire outbreaks are acute during the winter months. Humanitarian organizations, such as the Red Cross and the Gift of the Givers Foundation, are usually the first to offer humanitarian assistance. Notwithstanding the loss of property and the lives of the residents during the fire outbreaks, dwellers of these places through resilience or perhaps because of a desperate situation continue to rebuild their dwellings in those disaster-prone areas [46, 47].

5.3.4 (In)formal settlements and a nexus of nefarious interests

Sometimes, the conflict between the shack dwellers and the Durban municipality is deeply rooted. The (in)formal settlements could also be intertwined in a nexus of conflicting interests. There are *shack lords* who live in wealthy areas of Durban. These mobilize land invasion of unoccupied land which they sell illegally to those who are desperate for housing [33].

Another element is that of the taxi operators who are eager to develop new routes. And there are also drug dealers who are believed to see the expansion of their customer base. Sometimes organizers of land invasions use politically charged language, such as no one would evict land invaders as the land they were invading was their forefathers' [33]. Also, they resort to emotional blackmail:

"When we deal with Abahlali baseMjondolo or any other organized force, they try to paint us being anti-poor and using force to resist a legitimate and genuine social course..." (KwaZulu-Natal, Government Human Settlements MEC Ravi Pillay)
(Source: Nsele [44]).

Differing interests come to collide in land and greenbelt invasions in the Greater Durban Area. The organized manner in which land invasions occur is indicative of the elements that operate behind the scenes in these activities. Politics intersects with greed. Land invasions and the rapid pace at which the rapid spread of (in)formal settlements have political overtones. Politicians built their constituency through the (in)formal settlement dweller. Sometimes, councilors and politicians from the ruling party eye a piece of land for a lucrative housing development in which they stand to benefit. Thus, access to levers of power goes together with patronage [34]. As soon as *Shack lords* learn that a certain piece of land is earmarked for development, they mobilize an invasion of that piece of land.

The Abahlali baseMjondolo (in)formal settlements social movement also raised funds from international donors to challenge in court acts of eviction from invaded land [33]. As outspoken critics of the ANC (the governing party), the Abahlali baseMjondolo has suffered for it [34]. Since the year 2014, there have been numerous assassinations of high-profile members of this social movement.

This section has presented the process and dynamics of the development of (in)formal settlements in the study area. The next section condenses the findings into identifiable areas and factors of the development of (in)formal settlements in the Ethekwini municipality.

6. Discussion and conclusion

The National Department of Human Settlements [29] through the National Housing Code tries to normalize and regulate the processes of government-provided housing in South Africa. This is done by prescribing norms and standards of appropriate housing. Hence, ideally, all South Africans have the right to proper housing. South Africa's constitution also guarantees this right. But reality paints a different picture. Since the advent of democracy in 1994, South African cities have endured high demands for housing and related services and amenities which outstrips the supply. Several factors explain this high demand for housing in cities. But the context of material scarcity coupled with the failure of formal institutions, not only in the

towns and cities in South Africa but also in other parts of the continent of Africa, has fuelled the unmet demand for housing and services. Thus, the (in)formal housing and shacks, in major cities of South Africa, have arisen out of these processes. The greenbelts, the legacy of modernist forms of urban planning have provided a fertile environment for the location and mushrooming of (in)formal housing.

The category of (in)formal settlements is not value-free. It creates binary oppositions and categories of formal and informal settlements. In the process, it marginalizes a certain category while privileging the other. In this case, the marginalized category would be that of informal settlements as this category is represented as a deviation from the form. So, the way the Ethekwini municipality relates to (in)formal settlements would also depend on how the (in)formal settlements are socially constructed and represented. Related to this, Cronley [48] has explained the processes of the social construction of homelessness. There are two conceptualizations of homelessness. The individual interpretations of homelessness posit that it is the result of personal deficiencies, such as substance abuse. While structural interpretations, on the other hand, suggest that homelessness results from systemic factors such as lack of affordable housing and employment opportunities. In a similar vein, Somerville [49] argues that an adequate theory of the meaning of a home is needed to explain it as a complex, multileveled or multidimensional construct. Somerville [49] further draws from Després [50] and identifies 10 categories of the meaning of a home. These range from physical security and control and material characteristics of the dwelling to cultural and symbolic meanings associated with self-expression, emotional security, and social status. There are also meanings of a home that have connotations of family and friends and social activities. Thus, extending this understanding to the (in)formal settlements in the Ethekwini municipality and everywhere else, it becomes apparent that there needed to be more nuanced concepts for their understanding.

The response of the Ethekwini municipality to (in)formal settlements appears to be reactive. There is no plan to deal with rapid urbanization and the subsequent mushrooming of (in)formal settlements. The municipality has even on record that (in)formal settlements are not part of urban planning in the municipality. To the municipality, (in)formal settlements appear to be discrete and homogeneous occurrences. There appears to be no relationship between other social, economic, and political processes far and near and the breakout of (in)formal settlements in the Ethekwini municipality. The Ethekwini municipality tends to deal with the (in)formal settlements in distinct sequential phases. The would-be (in)formal settlement dwellers, upon invading and occupying the empty land, organize protest actions to demand services. The municipality responds by clamping down on them. As (in)formal settlement dwellers apply more pressure and defiance, the municipality gives in and provides some measure of services and amenities. This is repeated in all cases, where there are (in)formal settlements in the Ethekwini municipality.

But processes of the development of (in)formal settlements are mutually constitutive, in that they shape each other. Social, economic, and political processes where (in)formal settlement dwellers originate have a bearing on their development in the Ethekwini municipality. At the Ethekwini municipality, the network of actors in this municipality plays an important role in the development of (in)formal settlements. The network of actors in the development of (in)formal settlements, that this paper identified above, includes the so-called *shack lords*, who mobilize land invasion. Once land has been invaded, they extort rent from desperate shack dwellers. Secondly, some politicians thrive on patronage. These disrupt proposed economic development projects. Once they learn that a development project is planned for a particular land, these politicians,

mobilize that the particular land be invaded. The intention would be to have that piece of land developed for low-cost housing. Low-cost housing enables them to access big tenders that are worth a lot of money. Thirdly, there are illicit drug dealers. These see (in) formal settlements as opportunities for new illicit drugs market. Fourthly, there are taxi operators. Like the illicit drug dealers, these (in) formal settlements as an opportunity to expand into new transport and passenger routes. Fifthly, there are leaders of the social movement. Some of the leaders might not have genuine interests of the dweller of (in) formal settlements. The sixth party in the (in) formal settlements is the suburban rate-payers. Shacks have a significant impact on property prices. Lastly, there is the Ethekewini municipality, which seems not to have a plan to deal with the complexity of the situation.

The above discussion shows that the development of (in) formal settlements involves a series of processes and activities. It has been shown how (in) formal settlements are reproduced and institutionalized. The concept of mutual constitution provides a powerful frame of analysis in this regard. Silverstre [51] has deployed this concept to show that framing the development of contemporary urban mega-projects—Rio de Janeiro, Brazil—as a serial reproduction landscape obscures how circulating planning models are produced and institutionalized. Also, Söderlund and Sydow [52] explain that the linkages between projects and institutions. The argument is that institutions shape the conditions for projects, and in turn, projects may, also, influence institutions and institutionalization processes. Thus, this throws more light on the understanding of the self-reinforcing processes of the development of (in) formal settlements in the Ethekewini municipality.

This paper has shown that the issue of (in) formal settlements is much more complex than it appears. Conflicting interests, which are sometimes deadly, are intertwined in the (in) formal settlements in the Ethekewini municipality. Therefore, dealing with the (in) formal settlements in the Ethekewini municipality requires genuine, innovative, and ingenious leadership.

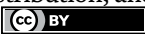
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References

- [1] Perez AM. Garden cities, suburbs, and fringes: The Green Belt in a global setting. In: Bishop P, Perez AM, Roggema R, Williams L, editors. *Repurposing the Green Belt in the 21st Century*. California: UCL Press; 2020
- [2] Mabin A. Comprehensive segregation: The origins of the group areas act and its planning apparatuses. *Journal of South African Studies*. 1992;**18**(2):405-429
- [3] Bigon L. Garden City in colonial Africa: A note on historiography. *Planning Perspectives*. 2013;**28**(3):477-485
- [4] Vergne JP, Wry T. Categorizing categorization in research: Review, integration, and future decisions. *Journal of Management Studies*. 2014;**51**(1):56-94
- [5] O'Doherty K, Lecouteur A. "Asylum seekers", "boat people", and "illegal immigrants": Social categorization in the media. *The Australian Psychological Society*. 2007;**59**(1):1-12
- [6] Tapley H. Queering paradise: Toni Morrison's anti-capitalist production. *Feminist Theory*. 2013;**14**(1):21-37
- [7] Moodley M, Kloppe R. The conceptual basis of ethnic stereotyping. *Alternation*. 2003;**10**(2):11-24
- [8] Krzyżanowski M. Normalization and the discursive construction of "new" norms and "new" normality: Discourse in the paradoxes of populism and neoliberalism. *Social Semiotics*. 2020;**30**(4):431-448
- [9] Baker P, Ellece S. *Key Terms in Discourse Analysis*. New York: Continuum; 2011
- [10] Foucault M. *Discipline and Punish: The Birth of the Prison*. New York: Random House; 1975
- [11] Taylor D. Normativity and normalization. *Foucault Studies*. 2009;**7**:45-63
- [12] Murto R. Gender categorization in representational market practice. *Journal of Marketing Management*. 2019;**3**-4:238-265
- [13] MacDonald HL, Gibson CH. Parenting children requiring complex care at home: Re-visiting normalization and stigma. *Journal of Nursing and Healthcare of Chronic Illness*. 2010;**2**(3):241-250
- [14] Monyeki KD, Makgae PJ, Motlokoa GL, Mashita RJ, Amusa LO. Reporting health care research in South Africa: Which categorization is most appropriate? *African Journal for Physical Health Education, Recreation and Dance*. 2006;**12**(2):171-181
- [15] Nell IA. Preaching as self-categorization: Analyzing a Beyers Naudé sermon by making use of social identity theory. *NGTT*. 2013;**54**(1&2):119-130
- [16] Hermanson EA. Biblical Hebrew: Conceptual metaphor categories in the book of Amos. *Old Testament Essays*. 1998;**11**(3):438-451
- [17] Buchholz M. Global categories and local realities: Some thoughts on the WWL country dossier on China and its use of WCD categories. *URF*. 2021;**13**(1/2):53-67
- [18] Moalusi K. Numbers conceal the intricacies in categorizing qualitative

research in organizational studies: What lies beneath the surface? *SA Journal of Industrial Psychology/SA Tydskrif vir Bedryfsielkunde*. 2020;**46**:1-12. Available from: <https://sajip.co.za/index.php/SAJIP/article/view/1692>

[19] Guler M, Gursoy K, Guven B. Critical views of 8th grade students towards statistical data in newspaper articles: Analysis in light of statistical literacy. *Cogent Education*. 2016;**3**:1-10. DOI: 10.1080/2331186X.2016.1268773

[20] Tausczik Y, Faase K, Pennebaker JW, Petrie KJ. Public anxiety and information seeking following the H1N1 outbreak: Blogs, newspaper articles, and Wikipedia visits. *Health Communication*. 2012;**27**(2):179-185

[21] Cherbonneau MG, Copes H. Media construction of carjacking: A content analysis of newspaper articles from 1993-2002. *Journal of Crime Studies*. 2003;**26**(2):1-21

[22] Luisi MLR, Barker J, Geana M. American Ebola story: Frames in the U.S. Newspapers. *Atlantic Journal of Communication*. 2018;**26**(5):267-277

[23] Welch M, Fenwick M, Roberts M. State managers, intellectual, and the media: A content analysis of ideology in experts' quotes in feature newspaper articles on crime. *Justice Quarterly*. 1998;**15**(2):219-241

[24] Werner P, Schiffman IK, David D, Abojabel H. Newspaper coverage of Alzheimer's disease: Comparing online newspapers in Hebrew and Arabic across time. *Dementia*. 2019;**18**(4):1554-1555

[25] Boczkowski P. The development and use of online newspapers: What research tells us and what we might want to know. In: Lievrouw L, Livingstone S, editors.

The Handbook of New Media. London: Sage; 2002. pp. 270-286

[26] Peng FY, Tham NI, Xiaoming H. Trends in online newspapers: A look at the US web. *Newspaper Research Journal*. 1999;**20**(2):52-63

[27] Baumgartner J. Newspapers as historical sources. *Philippine Quarterly of Culture and Society*. 1981;**9**(3):256-258

[28] Carvalho A, Burgess J. Cultural circuits of climate change in U.K. broadsheet newspaper, 1985-2003. *Risk Analysis*. 2005;**25**(6):1457-1469

[29] Department of Human Settlements. *The National Housing Code: Technical Guidelines*. Pretoria: Department of Housing; 2009. Available from: <https://www.dhs.gov.za/content/national-housing-code-2009>

[30] Department of Human Settlements. *Human Settlements*. 2023. Available from: <https://www.gov.za/about-sa/humansettlements>

[31] EtheKwini Municipality. *Integrated Development Plan (IDP)*. 2020/2021. Available from: <https://www.durban.gov.za/pages/government/documents?d=Integrated%20Development%20Plans%20IDP%20-%20eThekwin Municipality>

[32] EtheKwini Municipality. *Draft Process Plan (IDP)*. 2023/2024. Available from: <https://economic.durban.gov.za/storage/Documents/Integrated%20Development%20Plans%20IDP%20-%20eThekwin Municipality/Draft%20Process%20Plan%202023%20-%202024.pdf>

[33] Hans B, Manda, S. Shack pop up in Durban land grab. 2014. Available from: <https://www.iol.co.za/news/>

south-africa/kwazulu-natal/shacks-pop-up-in-durban-land-grab-1760398

[34] Arde G, Enoch B. The Blood Battle for Land and Rights in. Cato Manor; 2022

[35] Damba-Hendrik N. It will take eThekweni over 90 years to fix informal settlements, says metro. Ground-Up. 2023. Available from: <https://www.groundup.org.za/article/ethekweni-says-it-will-take-over-90-years-to-deal-with-the-backlog-of-issues-at-informal-settlements-across-the-metro/>

[36] Mboto S. eThekweni wants laws to be amended to stop mushrooming of informal settlements. IOL. 2023. Available from: <https://www.iol.co.za/mercury/news/ethekweni-wants-law-to-be-amended-to-stop-mushrooming-of-informal-settlements-8b8a3a3b-0113-43e1-9f95-bcc91d35441b>

[37] Department of Housing (South Africa). Prevention of Illegal Eviction and Unlawful Occupation of Land Act, Act No. 19. Vol. 789. Government Gazette; 1998. p. 18964

[38] Ndlovu S. Hundreds left homeless after fire in informal settlement in KZN. 2023. Available from: <https://www.timeslive.co.za/news/south-africa/2023-04-16-hundreds-left-homeless-after-fire-at-informal-settlement-in-kzn/>

[39] Basetane V. Thousands left homeless after fire in Durban. Thousands left homeless after shack fire in Durban (msn.com); 2023

[40] Pillay S. Shackland strangles chats. 2022. Available from: <https://risingsunnewspapers.co.za/196034/shackland-strangles-chats/>

[41] Dawood Z. Informal settlement expansion in eThekweni impacts service delivery to ratepayers. 2022.

Available from: <https://www.iol.co.za/dailynews/news/kwazulu-natal/informal-settlement-expansion-in-ethekweni-impacts-service-delivery-to-ratepayers-b248f033-0367-45b9-8e9d-a153f076dde0>

[42] Moodley J. Reservoir Hills residents oppose eThekweni Municipality's plan to build transit camp. 2022. Available from: <https://www.iol.co.za/thepost/news/reservoir-hills-residents-oppose-ethekweni-municipalities-plan-to-build-transit-camp-4a66aba6-ff06-4716-b843-427e5f471e4a>

[43] Mkhize M. Fire guts another Durban informal settlement. 2023. Available from: <https://www.sowetanlive.co.za/news/south-africa/2023-04-19-fire-guts-another-durban-informal-settlement/>

[44] Nsele S. Shack lords on the rise in KwaZulu-Natal. 2017. Available from: <https://www.news24.com/news24/shack-lords-on-the-rise-in-kwazulu-natal-20170222>

[45] Khumalo S. "Shack lords" undermine housing plan. 2013. Available from: <https://www.iol.co.za/news/south-africa/kwazulu-natal/shack-lords-undermine-housing-plan-1461290>

[46] Duma N. "They've lost everything": Appeal for help after KZN informal settlement fire. 2019. Available from: <https://ewn.co.za/2019/12/09/they-ve-lost-everything-appeal-for-help-after-kzn-informal-settlement-fire>

[47] Lindeque M. 9-month-old baby girl dies in Durban shack fire. 2020. Available from: <https://ewn.co.za/2020/02/17/9-month-old-baby-girl-dies-in-durban-shack-fire>

[48] Cronley C. Unravelling the social construction of homelessness. Journal

of Human Behavior in the Social Environment. 2010;20:319-333

[49] Somerville P. The social construction of home. Journal of Architectural and Planning Research. 1997;14(3):226-245

[50] Després C. The meaning of home: Literature and directions for the future research and theoretical development. Journal of Architecture and Planning Research. 1991;8(2):96-114

[51] Silverstre G. Replicated or homegrown planning model? The mutual constitution of ideas, interests and institutions in the delivery of megaprojects in Rio de Janeiro. International Planning Studies. 2022;27(2):107-119

[52] Söderlund J, Sydow J. Projects and institutions: Towards understanding their mutual constitution and dynamics. International Journal of Project Management. 2019;37:259-268

The “Affordable Food” Deception: How the Real Costs of Pesticides Are Hidden, and Food Justice Is Being Obstructed

Peter Clausing and Brian Garvey

Abstract

Cheapening labor is essential for firm competitiveness and profitability in a capitalist economy and, for the labor force to be constantly renewed, labor needs to eat cheaply. The widespread use of pesticides is a favored means to make food production more “cost-effective.” This is possible, however, only because a considerable part of the cost of pesticides is socialized. Our narrative review is based on research of available literature and publicly available statistics. The continued externalization of risk includes avoidance of the cost of regulatory measures and of the considerable health and environmental costs that are instead paid by public tax monies and health insurance for example. Even conservative estimates indicate hidden costs some two to three times higher than the global annual sales of pesticides (currently ca. \$60 billion), while reduced “healthy life expectancy” of farmers and the general population remain a hallmark of pesticide use. This chapter, following an interrogation of the sectoral production statistics and of the costs involved in regulation and human harm, contends that pesticides impose substantial public costs that are belied by the agrochemical industry mantra of cheap food and the avowed necessity of pesticides to feed the world and its workers.

Keywords: pesticides, cheap food, health, environment, hidden costs, externalization

1. Introduction

As cheap labor is a cornerstone of capitalist production, reducing the costs of its reproduction is an essential component of the global economy: cheap labor needs to eat cheaply. Both food and labor are among the seven things discussed in the “History of the World in Seven Cheap Things: A Guide to Capitalism, Nature, and the Future of the Planet” [1]. From a meta-perspective, there are three options to ensure that labor is sufficiently cheap, so that products can be sold at competitive prices and capitalist production remains competitive and profitable.

In the interests of maintaining global competitiveness and firm profitability, labor is disciplined or cheapened by four key means that are most relevant to our discussion are:

Firstly, new technologies and forms of automation and mechanization continue to replace labor, thereby cutting jobs and incentivizing workers to reduce wage demands [2].

Secondly, there continue to be shifts in the geographic zones of production to avail of a large labor force. As has been documented, the Global South dominates global production, and it is where a reserve army of labor serves to suppress wages for those employed in primary, secondary, and tertiary sectors [3, 4]. Thirdly, globalization has sustained a distinct coercion of large parts of the workforce, and this includes ongoing forced labor and slave labor [5]. Finally, capital continues to find a way to reduce the costs borne by the social reproduction of the labor force. This includes forcing further costs into the domestic spheres of the workforce [6, 7] and also reducing the immediate cost of food.

What is explored in the subsequent passages is how the popular image of “cheap” food hides the externalization of substantial and harmful costs of capitalist production on to workers, the state, and consumers.

The significance of cheap food as a means to facilitate cheap labor becomes obvious because people in countries where the sweatshops of the Global South are located already spend up to 55% of their household consumption expenditures on food [8]—a percentage that most likely has increased after the war of Russia against Ukraine started. At the same time, cheap food is also a means to avoid social unrest, which for centuries represented an archaic form of collective bargaining by the urban poor [9]. It is one of the contradictions of the capitalist economy that one of its currents depends on cheap food (for cheap labor) while the other (commodity exchange) is driving food prices up by speculation, eventually resulting in food riots, which became particularly visible after the steep food price hike in 2007/2008 when such riots occurred in almost 40 countries [10].

A prominent articulation of the idea to promote allegedly cheap food and at the same time eroding food sovereignty came from John Block, at that time US Secretary for Agriculture, who claimed in 1986 that the “idea that developing countries should feed themselves is an anachronism from a bygone era. They could better ensure their food security by relying on US agricultural products, which are available, in most cases, at much lower cost” [11]. This approach, originally part of the US-inspired Cold War strategy of a green revolution—to counter the “red revolutions” in the Global South of the 1960s paved the way for a tremendous increase of the global use of agrochemicals in the decades that followed.

According to Food and Agriculture Organization (FAO) statistics [12], pesticide use almost doubled between 1990 (1.8 million tons) and 2021 (3.5 million tons). However, a recent analysis identified poor quality data and data gaps in reporting pesticide use at country levels [13]. In contrast to FAO’s claim that global pesticide use has leveled off during recent years [14], it became clear that this leveling-off was a result of changes in reporting and not of reduced use. Shattuck and coauthors demonstrated a continuous increase emphasizing that this trend was most prominent in low and lower-middle-income countries, particularly after 2009. The other side of the coin is an estimated 385 million unintended acute pesticide poisonings, including 11,000 fatalities per year at the global level [15]. The vast majority of these poisonings occur in the Global South. This is a bold example of sacrificing human health and human lives to the benefit of an “efficient” production.

We suggest that the health, environmental, and regulatory costs caused by pesticides must be considered when assessing the true cost of food and the alleged cost efficacy of pesticide-based food production.

The work presented here is a narrative review based on publications searched in the literature databases PubMed and Google Scholar using the keywords “Pesticides” AND “Health Costs”. In addition, publicly available statistical data from the World Bank, the Food and Agricultural Organization, and the German Ministry of Agriculture were used.

2. The hidden and externalized costs of pesticide use

It is widely considered among experts that pesticides are a business tool that can be used to produce food more cheaply. But a closer look makes it clear that it is a fallacy to believe that this makes food cheap. While the use of pesticides seems to make food production more “cost-effective”, a considerable part of these expenses is socialized.

In their review, Denis Bourget and Thomas Guillemaud [16] distinguish four categories of “hidden and externalized” costs of pesticide use:

1. so-called “regulatory costs” (costs to finance authorities responsible for the approval of pesticides and the monitoring of pesticide use, including control analyses of food and groundwater),
2. costs of occupational health and safety equipment,
3. costs to deal with health costs caused by pesticides, and
4. costs of environmental damage, which is the most difficult part to quantify financially.

Thinking it through, one could even add the costs of lobbying activities by the pesticide industry as well as money used to support civil society initiatives fighting against pesticides, two activities that would be obsolete if no pesticides were used, and money that could be used for other purposes if food would be produced without agrochemicals. In fact, an estimated 10 million Euros are spent annually for lobbying by the pesticide industry in the European Union—an amount “greater than the budget of the European Food Safety Authority (EFSA), which works to regulate pesticides” [17].

Cost categories 1–4 are not borne by pesticide manufacturers and, excluding category 2, are not borne by farmers either. Although for completeness, it should be mentioned that companies pay a certain fee when registering a pesticide; this fee, however, does not come close to covering the regulatory costs mentioned above.

2.1 Regulatory costs

As one can easily imagine, regulatory costs vary considerably from country to country, depending not only on its size but also on the conditions prevailing there. Standardized to the 2013 value of the US dollar, for example, the regulatory cost in 1996 in the Republic of Niger was \$150,000 compared to \$5 billion in 2002 in the United States [16]. This translates into about 1.5 cent per capita in Niger, versus

approximately \$15 per capita in the United States. One could say that part of this difference is paid in the currency of “healthy life expectancy” (HALE)—a statistical measure determined by the World Health Organization on a regular basis. The HALE “at birth” estimate for 2019 was 55 years for people from Niger and 66 years for people from the United States.

Another estimate of regulatory costs is available for France [18]. Based on data from 2017, it was estimated that 31.9 million Euros were spent on the regulation of pesticides, corresponding to 47 euro cents per person.

2.2 Cost of occupational health and safety equipment

The geographic spread of the cost of occupational health and safety has similar disparities. Many farmers in the Global South use little or no occupational health and safety equipment, if only because of cost.

For Mali, it was estimated that a farmer would need to spend between \$30 and \$60 annually to protect himself against pesticide exposure [19]. Obviously, for African smallholders earning \$2 per day [20], these \$30–\$60, corresponding to 6–12% of their annual income, cannot be afforded. Even in Iran which, according to the World Bank definition [21], belongs to the group of lower-middle-income countries, farmers do not use all the personal protective equipment (PPE) necessary. This was demonstrated in a study conducted with 370 farmers in the Ardabil province [22]. These farmers used eight different pesticides (chlorothalonil, chlorpyrifos, diazinon, glyphosate, imidacloprid, metribuzin, paraquat, and trifluralin), which all belong to the group of highly hazardous pesticides [23]. According to the product information, the use of these pesticides with an acceptable risk needed at least five pieces of PPE (long sleeve shirt and pants, rubber boots, goggles, resistant gloves, and filter mask), and for four of the eight pesticides a sixth piece of PPE was required. On average, these farmers used only three PPE items (between 2.7 and 3.3 items, depending on the pesticide used). This gives an expression of what PPE use can be expected from even less educated, poorer smallholders.

The problem is not confined to small, independent producers, however. It is commonly found that farm workers of large agribusinesses are denied the adequate provision of protective equipment. For example, the South African nongovernmental organization, Women on Farms Project, reported that when authorities come to visit, managers hand out protective clothing beforehand and then have it collected again. In addition to economic reasons, a lack of knowledge of risk (“it’s not necessary”) and adverse climatic conditions (where protective equipment adds to heat stress) are important reasons for the insufficient use of PPE in the countries of the Global South. Who wants to walk around with a protective mask and a protective suit when the temperature rises above 30° Celsius? This, in turn, has consequences for their health but not for the price of their products.

2.3 Cost of health impacts

To put it simply, every year, millions of people go to the hospital—if they can get there at all—so that food prices can be kept low enough for those who survive on low-paying jobs. Depending on the type of damage, there are very different estimates of pesticide-related health costs. These costs are not paid by industry but instead either directly by those affected or by the general public through insurance premiums, tax money, or sick leave benefits, and thus, are not reflected by the price of the food.

2.3.1 Acute poisonings

The most commonly available figures for ill health from pesticides are those for acute poisoning, although the reported cases represent only the tip of the iceberg. These costs are relatively easy to calculate because here, the link between the cause of poisoning (pesticide) and its financial consequences can be established directly; for instance, by field studies in which the affected persons are interviewed and the expenses related to the poisoning are reported. Such expenses include transportation costs to the hospital, treatment costs, and loss of earnings. In contrast to chronic diseases, loss of earnings after acute poisoning mostly occur for a relatively short period of time—the time needed to recover from, e.g., respiratory, neurological, or gastrointestinal disturbances. Twelve publications reviewed by Bourget and Guillemaud [16] covered nine countries in the Global South. The data provided an (unweighted) average cost of \$55.17 per affected farmer per year, ranging from \$2.63 per case in a study from China to \$187.36 per case in the studies from Sri Lanka (all standardized to the 2013 value of the US dollar). Expenses of less than \$10 per case might be considered an underestimate because the China study (\$2.63 per case) and the Zimbabwe study (\$9.42 per case) did not take into account the loss of earnings due to the poisoning. How much money is needed to recover from an acute pesticide poisoning depends not only on the intensity of exposure, but also on the type of pesticide.

For paraquat, a herbicide banned in the European Union but still widely used in the Global South, the average cost per acute intoxication in Colombia was \$2642 [24]. The 344 cases reported for 2017 translate into almost \$900,000 alone in Colombia. Paraquat causes acute hepatic, renal, and respiratory problems, with pulmonary fibrosis being a complication that generates long-term morbidity in survivors. In a study conducted in Chile from January 2009 to December 2011, the average cost per case was \$794 in case of hospitalization (23% of cases) and \$25.5 in case of ambulatory treatment (77% of cases) [25].

In contrast, for a sample of 307 farmers surveyed in the Punjab province of Pakistan between June and September 2019, an average health and protection cost of \$3.60 was calculated [26]. These farmers used exclusively Class II (moderately toxic) pesticides [27], which seems to make a difference. According to the authors, the daily wage of the farmers participating in this survey was an estimated \$3.22, and the cost of living was \$3.00. In other words, the acute pesticide poisoning in this setting consumed the spare money (\$0.22) of 16 work days.

No reliable estimate of the global annual costs of acute poisonings exists. However, one could use an arbitrarily selected lower bound of \$10 per case or accept the unweighted average of \$55.17 per case as representative [16] and multiply this with the global estimate of 385 million unintentional acute pesticide poisonings annually [15]. This would yield an annual cost between roughly \$4 billion and \$20 billion for acute poisonings. It should be noted that even the \$55.17 per case could be an underestimate when taking into account the more recent reports mentioned above [24, 25]. Furthermore, it should be noted that the figure of 385 million includes 11,000 fatal poisonings. Fatal poisonings are rarely taken into account in the cost-illness studies published so far. Neither were they considered here. Monetizing human lives may be an issue in courts. For statistical estimates, it represents an ethical question.

Another aspect to be kept in mind is that exposure to pesticides resulting in symptoms of acute intoxication is a strong indication for a more subtle but high long-term exposure to the pesticides used. Long-term health consequences are likely to

occur from such a high chronic exposure, which, however, mostly remains unnoticed because it is below the threshold of clinical symptoms.

2.3.2 Chronic health effects

While the costs of acute poisoning vary widely and may have been underestimated, a monetary assessment of chronic health damage caused by pesticides is virtually lacking for countries in the Global South. This is all the more dramatic because, due to weaker or missing regulations, the exposure to pesticides is much higher [28–30] than, e.g., in Canada, the United States, or the European Union. In addition to the higher exposure, the pesticides used in countries of the Global South are often more dangerous. Many of the “highly hazardous pesticides” [31] are meanwhile forbidden, e.g., in the European Union, but still used in the Africa, Asia and Latin America. Therefore, it can be assumed that the incidences of chronic diseases such as cancer and Parkinson’s disease or birth defects are higher in low and lower-middle-income countries. However, health statistics are often poor, and epidemiological studies are sparse.

The few estimates for the cost of long-term effects of pesticides refer almost exclusively to the European Union or their member states.

Alliot and coauthors [18] calculated the health costs for long-term illnesses due to synthetic pesticides in France in 2017 and identified 46.7 million Euros for Parkinson’s disease and 1.8 million Euros for non-Hodgkin lymphoma (cancer of the lymphoid system). It should be noted that these are the figures of recognized cases of agricultural occupational diseases only. Numerous epidemiological studies provide evidence that pesticides can be the cause of many more chronic diseases. Significantly increased risks due to pesticide exposure were demonstrated, e.g., for leukemia, prostate cancer, brain tumors, colon cancer, and lung cancer [32].

Two extensive analyses [33, 34] looked at the EU-wide annual costs caused by so-called endocrine-disrupting compounds. Their projections amounted to 157 billion Euros [33], with organophosphate pesticides responsible for the lion’s share of \$121 billion [35, 36]. In all these studies, the economic impacts of the following health problems were taken into consideration: intellectual disability (as measured by a reduced intelligence quotient), psychological disorders (autism and attention-deficit hyperactivity disorder), metabolic disorders (obesity and diabetes), and reproductive disorders as cryptorchidism, male infertility, and mortality associated with reduced testosterone [33, 35, 36]. In an updated analysis, they also added fibroids and endometriosis and estimated a median annual cost of 163 billion Euros [34]. As for acute poisonings, the cost estimates included not only the expenses related to medical treatment but also loss of income due to the diseases.

While the total disease burden and costs were much higher in the United States—an estimated \$340 billion in 2010—the share of pesticides was much lower, estimated at \$48 billion [35]. This difference was due to the different use spectrum of pesticides in the United States vs. the European Union. For instance, a certain type of flame retardants (polybrominated diphenyl ethers) played a major role in the United States, whereas the use of certain organophosphate pesticides was a prominent factor in the EU.

2.4 Environmental costs

Environmental costs are even more difficult to estimate, resulting in a large range between the lower and upper boundary of the estimates. Alliot and coauthors [18],

using official data of the French government and the European Commission, provided the most accurate, but at the same time also the most restrictive estimate. For 2017, they could allocate 291.5 million Euros of environmental costs to pesticides. Of these, 260 Euros alone were used for water treatment because of the presence of pesticides. An extrapolation of this cost to the EU level yielded an estimate of 1.3 billion Euros for water treatment [17]. The fact that, according to UN statistics, more than two billion people worldwide do not have access to clean drinking water gives an idea of the dimension of the problem [37].

Many other environmental damages (e.g., loss of biodiversity and pollination “services” by insects, reduction of soil fertility due to glyphosate) are mentioned but not measured in monetary terms. Bourget and Guillemaud [16] had 11 fully independent datasets at their disposal to extract data on environmental costs. The estimated amounts ranged from (lower bound) \$270,000 for a single pesticide (carbofuran) used as a seed dressing for one crop, rapeseed [38], to approximately \$8 billion for all crops and pesticides in the United States [39]. The estimated costs covered loss of natural enemies, cost of pesticide resistance, honeybee and pollination losses, crop losses, fishery losses, bird losses, and groundwater contamination.

2.5 A rough estimate of the minimum total cost

Keeping in mind that many estimates mentioned above were either geographically restricted or limited in their scope (e.g., chronic health effects limited to recognized occupational diseases), the data collated in **Table 1** must be considered as a severe underestimation. Nevertheless, they provide an idea of the overall hidden cost of pesticides, which equals at least \$140 billion annually. Compared to the global sales of pesticides of \$60 billion in 2020 [17], the externalized costs are two to three times higher than the sales.

Entity	Amount (billion \$) [*]	Geographic area	Reference
Regulatory costs	5	United States	[16]
Regulatory costs	0.23 ^{**}	EU	[18]
Personal protective equipment (PPE)	4 ^{***}	EU and the Americas	[19]
Acute poisoning	3 85 ^{****}	Globally	[15, 16]
Occupational diseases	0.34 [#]	EU	[18]
Endocrine disruptive pesticides	120	EU	[35, 36]
Environmental costs	8	United States	[39]
Environmental costs	1.9 ^{##}	EU	[18]

^{*}Euro converted to US\$ using a factor of 1.1.

^{**}Extrapolated from France (68 million inhabitants) to EU (447 million inhabitants).

^{***}Extrapolated from upper bound annual PPE cost in Iran (\$60) multiplied with the 2020 farming population of Europe and the Americas—68 million people [40].

^{****}Extrapolated from lower bound cost per case (\$10) and 385 million cases annually.

[#]Extrapolated from France to EU, only for recognized cases of Parkinson’s disease and Non-Hodgkin Lymphoma (recognized occupational health disease in France assuming similar incidences in other European countries).

^{##}Extrapolated from France to EU.

Table 1.
Estimates of different types of hidden costs.

3. Enough food for all?

The mantra of the agrochemical industry is that pesticides (and synthetic fertilizers) are needed to feed the world. The counter-narrative by then UN Special Rapporteur on the Right to Food, Olivier de Schutter, is that hunger is a result of poverty rather than insufficient production and that smallholder farmers “in critical regions” of the world could double food production within 10 years using agroecological farming practices [41, 42].

Although agroecological farming is accompanied by a moderate reduction in yield per hectare [43], this tends to reverse in world regions where hunger is prevalent [44]. Moreover, it is not only a question of comparing yields per hectare but also of what agriculture will look like in future decades. Long-term soil quality is an ongoing concern while in view of climate change, water, and energy efficiency need to be taken into account.

Today, while water use in (large scale) agriculture receives \$700 billion in subsidies annually [45] withdrawn from rivers and from groundwater, 771 million people have no access to clean drinking water UNICEF [46]. This underscores the importance of efficient use of water, especially rainwater by crops, among other things, to achieve better yields even without artificial irrigation. For a number of important components of agroecological management, it is clear that they also improve water use. This includes shade trees in agroforestry and an increased humus content in the soil.

Less widely known, but well-documented, is the higher energy efficiency of agroecological farming. This is demonstrated by so-called food EROI studies, where EROI stands for “Energy Return on Investment.” It involves the balance of energy invested (from agrochemicals to fuels to irrigation) compared to energy gained in the form of food calories (e.g., [47, 48]). At the extreme, estimates range from 1:10 (1 kilocalorie used to produce 10 kilocalories of food) in the case of smallholder agroecological production to 10:1 for large agro-industrial settings [49].

Most importantly, when the protagonists of chemical-based agriculture bring into play the argument that high yields per hectare are necessary to feed the world’s population, it is also necessary to consider how agricultural ‘food’ products are being used in the world. In 2018, according to Food and Agriculture Organization (FAO) statistics, 35.6% of the world’s grain harvest was used as animal feed, and 21.8% was used as agrofuels, leaving only 42.6% of grain available for direct human consumption. Criticizing the excessive consumption of animal protein is not about a “vegan ideology”, but about adequate proportions. The World Health Organization recommends 18 kg of protein for nutritional purposes. In contrast, annual per capita consumption in Europe was already at 25 kg in 1960. At that time, half of the protein consumed was vegetable protein. In 2007 per capita consumption was at 30 kg of protein, and this further increase was exclusively covered by animal protein [50].

In addition to the inefficiency of using plant products as animal feed, and the competition for land between food vs. agrofuel production, there are avoidable (!) food losses, which for Germany alone are estimated by the Federal Ministry of Food and Agriculture (BMEL) at six million tons, about 7% of total production [51].

While the cereal crisis as a result of Russia’s war against Ukraine is a tragedy, it should be kept in mind that the dependence on food imports, especially in African countries, emerged in the 1980s when structural adjustment programs were imposed on heavily indebted countries by the World Bank and International Monetary Fund.

All in all, it can be seen that—provided there is political will—there are sufficient possibilities to buffer the currently existing yield difference between conventional and agroecological cultivation, although it is not even said whether these differences would remain in the long run—on the one hand because of improved agroecological cultivation methods and on the other hand because of declining conventional yields due to soil fatigue and poorer water utilization, as it is already becoming apparent in some regions.

4. Conclusion

As it has been shown, the alleged need for agrochemicals for the production of “affordable” food for a growing global population is a false claim as the proponents of the dominant model of industrialized agriculture—with its dependency on chemical inputs—omit from their calculations the substantial costs of regulation, of protective equipment, of health and environmental effects and the dismissal of the potential of agroecology. Even a conservative summation of the (hidden) annual costs caused by pesticides (at the very least \$140 billion) reveals a figure more than two times higher than the global pesticide sales (\$60 billion for 2020). The data provided here underpins the consideration that a significant proportion of “cheap food’s” production costs are paid for in the form of tax money, insurance premiums, reduced quality of life, and shortened life expectancy. It is evident that these harms to human life are unevenly distributed across the globe, with rural workers and families in the Global South disproportionately sickened and killed as a result. Critics of agroecological alternatives may point to more labor-intensive and, thus, more expensive means of food production—especially if fair wages are paid. When the hidden costs of pesticide-based agriculture are revealed, however, these arguments would appear to dissipate. Furthermore, the new challenges facing cultivation from climate change call for not just safer means of food production but also those which can reduce fossil fuel dependence and conserve water and energy. An ethical commitment to protect human life alongside the reduction of long-term environmental harm points to a broader and more accurate appraisal of the hazards that underpin contemporary, industrialized agriculture and consideration of available alternatives.

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References

- [1] Patel R, Moore JW. *A History of the World in Seven Cheap Things: A Guide to Capitalism, Nature, and the Future of the Planet*. Oakland: University of California Press; 2018. 312 p
- [2] Garvey B, Barreto MJ. At the cutting edge: Precarious work in Brazil's sugar and ethanol industry. In: Lambert R, Herod A, editors. *Neoliberal Capitalism and Precarious Work: Ethnographies of Accommodation and Resistance*. Cheltenham: Edward Elgar Publishing; 2016. pp. 166-200
- [3] Smith J. *Imperialism in the Twenty-First Century: Globalization, Super-Exploitation, and Capitalism's Final Crisis*. New York: Monthly Review Press; 2016. 384 p
- [4] Suwandi I. *Value Chains: The New Economic Imperialism*. New York: New York University Press; 2019. 215 p
- [5] Portes Virginio F, Garvey B, Leão LH, Vasquez PB. Contemporary slave labour on the Amazonian frontier: The problems and politics of post rescue solidarity. *Globalizations*. 2022;**19**(6):937-954
- [6] Haraway DJ. *Primate Visions: Gender, Race, and Nature in the World of Modern Science*. New York: Routledge; 1989. p. 496. DOI: 10.4324/9780203421918
- [7] Federici S. *Revolution at Point Zero: Housework, Reproduction and Feminist Struggle*. 2nd ed. Oakland: PM Press; 2020. 264 p
- [8] Federal Statistical Office of Germany. *International Statistics. Household Consumption Expenditure on Food*. Available from: [https://www.destatis.de/EN/Themes/Countries-Regions/International-Statistics/Data-Topic/](https://www.destatis.de/EN/Themes/Countries-Regions/International-Statistics/Data-Topic/Tables/BasicData_HouseholdExpFood.html?nn=21880)
- [9] Walton J, Seddon D. *Free Markets & Food Riots. The Politics of Global Adjustment*. Oxford: Blackwell Publishers; 1994. 387 p
- [10] GRAIN. *Getting Out of the Food Crisis*. Available from: <https://grain.org/media/W1siZiIsIjIwMTEvMDcvMDJlMjE2MDRfMjNfMDRfODYyX29yWdpbmFsLnBkZiJdXQ> [Accessed: August 19, 2023]
- [11] Patel R, McMichael P. A political economy of the Food riot. In: Pritchard D, Riot PF, editors. *Unrest and Protest on the Global Stage*. London: Palgrave Macmillan UK; 2014. pp. 237-261. DOI: 10.1007/978-1-137-30553-4_13
- [12] FAOSTAT. *Pesticides Used*. Rome: Food and Agriculture Organization of the United Nations. Available from: <https://www.fao.org/faostat/en/#> [Accessed: August 19, 2023]
- [13] Shattuck A, Werner M, Mempel F, Dunivin Z, Galt R. *Global pesticide use and trade database (GloPUT): New estimates show pesticide use trends in low-income countries substantially underestimated*. *Global Environmental Change*. 2023;**81**:102693. DOI: 10.1016/j.gloenvcha.2023.102693
- [14] FAO. *World Food and Agriculture – Statistical Yearbook 2022*. Available from: <https://www.fao.org/3/cc2211en/cc2211en.pdf> [Accessed: August 19, 2023]
- [15] Boedeker W, Watts M, Clausen P, Marquez E. *The global distribution of acute unintentional pesticide poisoning: Estimations based on a systematic review*.

BMC Public Health. 2020;**20**:1875.
DOI: 10.1186/s12889-020-09939-0

[16] Bourguet D, Guillemaud T. The hidden and external costs of pesticide use. In: Lichtfouse E, Herausgeber, editors. Sustainable Agriculture Reviews [Internet]. Cham: Springer International Publishing; 2016. pp. 35-120. (Sustainable Agriculture Reviews; Bd. 19). DOI: 10.1007/978-3-319-26777-7_2

[17] BASIC: Pesticides a Model that's Costing us Dearly. Available from: <https://lebasic.com/en/pesticides-a-model-thats-costing-us-dearly/> [Accessed: August 19, 2023]

[18] Alliot C, Mc Adams-Marin D, Borniotto D, Baret PV. The social costs of pesticide use in France. *Frontiers in Sustainable Food Systems*. 2022;**6**:1027583. DOI: 10.3389/fsufs.2022.1027583

[19] Ajayi OC, Camera M, Fleischer G, Haidara F, Sow M, Traore A, et al. Socioeconomic Assessment of Pesticide Use in Mali. Pesticide Policy Project, Special Issue Publication Series No. 6. Hannover: University of Hannover; 2002. 69 p. Available from: https://www.ifgb.uni-hannover.de/fileadmin/ifgb/4_Materials_Research/PPP_Special_Paper_Series/ppp_s06.pdf [Accessed: August 19, 2023]

[20] Clausing P. Die Grüne Matrix, Naturschutz und Welternährung am Scheideweg. Münster, Unrast; 2013. 156 p

[21] World Bank. Lower Middle Income. Available from: <https://data.worldbank.org/country/XN> [Accessed: August 19, 2023]

[22] Sookhtanlou M, Allahyari MS. Farmers' health risk and the use of personal protective equipment (PPE) during pesticide application.

Environmental Science and Pollution Research. 2021;**28**:28168-28178.
DOI: 10.1007/s11356-021-12502-y

[23] PAN International. PAN International List of Highly Hazardous Pesticides. Available from: https://pan-international.org/wp-content/uploads/PAN_HHP_List.pdf [August 19, 2023]

[24] Buendía JA, Restrepo Chavarriaga GJ. Cost of illness of paraquat poisoning in Colombia. *Value in Health Regional Issues*. 2019;**20**:110-114. DOI: 10.1016/j.vhri.2019.02.006

[25] Ramírez-Santana M, Iglesias-Guerrero J, Castillo-Riquelme M, Scheepers PTJ. Assessment of health care and economic costs due to episodes of acute pesticide intoxication in Workers of Rural Areas of the Coquimbo region, Chile. *Value in Health Regional Issues*. 2014;**5**:35-39. DOI: /10.1016/j.vhri.2014.07.006

[26] Mehmood Y, Arshad M, Mahmood N, Kächele H, Kong R. Occupational hazards, health costs, and pesticide handling practices among vegetable growers in Pakistan. *Environmental Research*. 2021;**200**:111340. DOI: 10.1016/j.envres.2021.111340

[27] World Health Organization. Recommended Classification of Pesticides by Hazard. Available from: <https://apps.who.int/iris/bitstream/handle/10665/332193/9789240005662-eng.pdf> [Accessed: August 19, 2023]

[28] Maggioni DA, Signorini ML, Michlig N, Repetti MR, Sigrist ME, Beldomenico HR. Comprehensive estimate of the theoretical maximum daily intake of pesticide residues for chronic dietary risk assessment in Argentina. *Journal of Environmental Science and*

Health, Part B. 2017;**52**:256-266.
DOI: 10.1080/03601234.2016.1272997

[29] Maggioni DA, Signorini ML, Michlig N, Repetti MR, Sigrist ME, Beldomenico HR. National short-term dietary exposure assessment of a selected group of pesticides in Argentina. *Journal of Environmental Science and Health, Part B*. 2018;**53**:639-651.
DOI: 10.1080/03601234.2018.1474552

[30] Omwenga I, Kanja L, Zomer P, Louisse J, Rietjens IMCM, Mol H. Organophosphate and carbamate pesticide residues and accompanying risks in commonly consumed vegetables in Kenya. *Food Additives & Contaminants: Part B*. 2021;**14**:48-58.
DOI: 10.1080/19393210.2020.1861661

[31] Food and Agricultural Organization of the United Nations and World Health Organization. International Code of Conduct on Pesticide Management: Guidelines on Highly Hazardous Pesticides. Available from: https://apps.who.int/iris/bitstream/handle/10665/205561/9789241510417_eng.pdf?sequence=1&isAllowed=y [Accessed: August 19, 2023]

[32] Mostafalou S, Abdollahi M. Pesticides and human chronic diseases: Evidences, mechanisms, and perspectives. *Toxicology and Applied Pharmacology*. 2013;**268**:157-177. DOI: 10.1016/j.taap.2013.01.025

[33] Trasande L, Zoeller RT, Hass U, Kortenkamp A, Grandjean P, Myers JP, et al. Estimating burden and disease costs of exposure to endocrine-disrupting Chemicals in the European Union. *The Journal of Clinical Endocrinology & Metabolism*. 2015;**100**:1245-1255.
DOI: 10.1210/jc.2014-4324

[34] Trasande L, Zoeller RT, Hass U, Kortenkamp A, Grandjean P,

Myers JP, et al. Burden of disease and costs of exposure to endocrine disrupting chemicals in the European Union: An updated analysis. *Andrology*. 2016;**4**:565-572. DOI: 10.1111/andr.12178

[35] Attina TM, Hauser R, Sathyanarayana S, Hunt PA, Bourguignon JP, Myers JP, et al. Exposure to endocrine-disrupting chemicals in the USA: A population-based disease burden and cost analysis. *The Lancet Diabetes & Endocrinology*. 2016;**4**:996-1003.
DOI: 10.1016/S2213-8587(16)30275-3

[36] Malits J, Naidu M, Trasande L. Exposure to endocrine disrupting Chemicals in Canada: Population-based estimates of disease burden and economic costs. *Toxics*. 2022;**10**:146.
DOI: 10.3390/toxics10030146

[37] WHO. Drinking-water. 2022. Available from: <https://www.who.int/news-room/fact-sheets/detail/drinking-water> [Accessed: August 19, 2023]

[38] James PC. Internalizing externalities: Granular carbofuran use on rapeseed in Canada. *Ecological Economics*. 1995;**13**(3):181-184

[39] Pimentel D, Acquay H, Biltonen M, Rice P, Silva M, Nelson J, et al. Environmental and economic costs of pesticide use. *Bioscience*. 1992;**42**:750-760. DOI: 10.2307/1311994

[40] FAO. World Food and Agriculture – Statistical Yearbook 2021. Available from: <https://www.fao.org/3/cb4477en/cb4477en.pdf> [Accessed: August 19, 2023]

[41] United Nations. Agroecology and the Right to Food. Available from: http://www.srfood.org/images/stories/pdf/officialreports/20110308_a-hrc-16-49_agroecology_en.pdf [Accessed: August 19, 2023]

- [42] United Nations. Eco-Farming can Double Food Production in 10 Years, Says New UN Report. Available from: <https://www.ohchr.org/en/press-releases/2011/03/eco-farming-can-double-food-production-10-years-says-new-un-report> [Accessed: August 19, 2023]
- [43] Seufert V, Ramankutty N, Foley JA. Comparing the yields of organic and conventional agriculture. *Nature*. 2012;**485**(7397):229-232. DOI: 10.1038/nature11069
- [44] Badgley C, Moghtader J, Quintero E, Zakem E, Chappell MJ, Avilés-Vázquez K, et al. Organic agriculture and the global food supply. *Renewable Agriculture and Food Systems*. 2007;**22**:86-108. DOI: 10.1017/S1742170507001640
- [45] Global Commission on the Economics of Water. Turning the Tide. Available from: <https://turningthetide.watercommission.org/> [Accessed: August 19, 2023]
- [46] UNICEF. Weltwassertag 2023: 10 Fakten über Wasser. Cologne: Deutsches Komitee für UNICEF e.V. Available from: <https://www.unicef.de/informieren/aktuelles/blog/-/weltwassertag-2023-zehn-fakten-ueber-wasser/275338> [Accessed: August 19, 2023]
- [47] Guzmán Casado GI, González de Molina M, Energy in Agroecosystems. A Tool for Assessing Sustainability. Boca Raton: CRC Press; 2017. 470 p
- [48] Pelletier N, Audsley E, Brodt S, Garnett T, Henriksson P, Kendall A, et al. Energy intensity of agriculture and Food systems. *Annual Review of Environment and Resources*. 2011;**36**:223-246. DOI: 10.1146/annurev-environ-081710-161014
- [49] Vandermeer J, Smit G, Perfecto I, Quintero E. Effects of Industrial Agriculture on Global Warming and the Potential of Small-Scale Agroecological Techniques to Reverse those Effects. A Report to Via Campesina by The New World Agriculture and Ecology Group; 2009. 53 p. Available from: <https://www.welt-ernaehrung.de/wp-content/uploads/2023/08/Vandermeer-et-al.-2009-Effects-of-Industrial-Agriculture-on-Global-Warming-and-the-Potential-of-Small-Scale.pdf> [Accessed: August 19, 2023]
- [50] Sutton MA, Howard CM, Erisman JW, Billen G, Bleeker A, Grennfelt P, et al. The European Nitrogen Assessment. New York: Cambridge University Press; 2011. 612 p. Available from: <http://www.nine-esf.org/node/360/ENA-Book.html> [Accessed: August 19, 2023]
- [51] Bundesministerium für Ernährung und Landwirtschaft. Lebensmittelabfälle in Deutschland: Aktuelle Zahlen zur Höhe der Lebensmittelabfälle nach Sektoren. Available from: <https://www.bmel.de/DE/themen/ernaehrung/lebensmittelverschwendung/studie-lebensmittelabfaelle-deutschland.html> [Accessed: August 19, 2023]

Chapter 9

The Chilean Student Movement and the Bio-Politics of Existence: New Patterns of (re)Politicisation in a Post-Authoritarian Society

Ivette Hernandez Santibañez

Abstract

This article analyses the specific forms of doing and building politics in the Chilean student movement, and through which, it becomes a key actor for mobilising (re)politicisation within a post-authoritarian democratic society. The bio-politics of existence – transforming life into political action – is central to understanding this role. The bio-politics of existence refers to the emergence of a new political subjectivity in the Chilean student movement engaging with new forms of (re)politicisation of everyday life and forms of egalitarian political relationships. The bio-politics of existence interweaves with self-transformation to constitute subjectivities that subvert neoliberal governmentalities. Learning through making mistakes is central for student activists in 2006 to (re)vision their political agency and animate, in 2011, a radical political imaginary of politics as being-in-common. The manifold forms of the bio-politics of existence in the Chilean student movement, from everyday activism to grassroots building network alliances – presupposing temporal contingencies to identity politics as marginal sites and spaces of resistance – unveil a rhizomatic growth of egalitarian, participatory politics through which the Chilean student movement transformed, from below, the character of politics and democracy in a society regarded as the first laboratory of neoliberalism.

Keywords: the Chilean student movement, the bio-politics of existence, neoliberal governmentalities, prefiguration, (re)politicisation

1. Introduction

The depoliticisation of politics by the civic-military dictatorship was not only a symbolic discourse but also a practical one. Depoliticisation happened through the transformation of the city, the radical transformation of education and the depoliticisation of every sphere of our everyday lives. In a nutshell, it was a design oriented to depoliticise people.

(Bea, former constitutional delegate, Santiago de Chile, July 2022).

In the wake of a constitutional process set up in Chile in July 2021, which followed Chile's nationwide uprising to fight against injustice and inequalities – in one of the very well-known institutional stable democracies in the region – Bea's comment raises interesting questions in order to understand how (re)politicisation happens, and what features such a process within a neoliberal post-authoritarian society.

These questions are analysed through the case of the Chilean student movement, a collective actor that has become key for the transformation, from below, of the character of politics and democracy in a society regarded as 'the first laboratory of neoliberalism' [1]. The Chilean student movement must be seen in tandem with Latin American social movements mobilising – particularly since the decades of the 1990s onwards – against 'dispossession, poverty and inequality that have flowed up in the region since the early 1980s' [2]. As discussed in this article, the process of (re)politicisation in the Chilean student movement echoes 'new forms of popular politics [that] politicise places, subjectivities, and social relations' [3] and through which Latin American social movements seek to articulate their struggles for free education, housing, land, water and health.

It is argued that the Chilean student movement constitutes a remarkable example of the formation of a post-hegemonic 'cultural politics' [4] that sheds light on understanding what features the process of (re)politicisation in one of the most extreme forms of neoliberal state formation in the region. This article unfolds post-hegemonic cultural politics in the Chilean student movement by looking at the bio-politics of existence, that is, as transforming life itself into political action. The bio-politics of existence becomes central to the politicisation process within the Chilean student movement. It is featured as a rhizomatic growth of prefigurative egalitarian politics, which took place in all directions and 'across different spaces and places where politics have not traditionally been produced' ([5] p. 482).

Analysis on the impact the bio-politics of existence and diverse forms of (re)politicisation has had on 'reinvention of politics' [6, 7] does not, however, extend to the context of the recent waves of political mobilisations in Chile. Yet processes of (re)politicisation in the Chilean student have contributed a significant step towards understanding how social mobilisation 'against a depoliticised social order' ([8], p. 271) happened within a post-authoritarian neoliberal society. Such a process does not only encompass the development of a 'radical democratic culture' [9]; (re)politicisation continues to mean 'a question of resonance' [10] to contest the hegemony of neoliberalism.

The bio-politics of existence refers to an experiential process of doing politics differently. Bio-politics presupposes understanding the interrelationship between power, governmentality and resistance. Governmentality [11, 12] encompasses forms of self-regulation or technologies of the self [13] to produce a governable subject. In the case of the Chilean student movement, 'the neoliberal free-market ideology that has dominated the most radical transformation the Chilean education system has undergone in the last 40 years' ([5], p. 476) becomes the unique economic rationality that delineates the relation between subject and power, as well as the reciprocal constitution of power techniques and forms of knowledge. This article identifies neoliberal free-market ideology as the hegemony subverted by students' activists and the milieu for new forms of political activism and (re)politicisation. Thus, attention draws to heterotopia [13], understood as 'counter-sites' in which the order of things is challenged ([14], p. 169). Throughout this article, heterotopias, in particular rhizomatic heterotopias – as 'non-hierarchical, centreless, submerged forms of resistance' ([14] p. 170) – are analysed through the lens of specific forms of doing and building politics

within the Chilean student movement, entangled with temporal contingent forms of oscillating individual activism and collective mobilisation.

This article draws on my research on the geographies of the political construction of the Chilean student movement (See [15]). It builds upon 28 in-depth interviews with student activists collected in Santiago de Chile between June and November 2011. Informed constructivist theory, geographical information systems and Gephi were employed to build different levels of abstraction and produce an emergent inductive comparative analysis of the socio-spatial constitution of the Chilean student movement.

This article addresses the radical transformation of the Chilean education system in the last four decades. It revisits the roll-out of a neoliberal economic policy agenda in education as ‘the consensual governance’ [8], which fundamentally pursued a consistent expansion of neoliberal economic rationality in and through education. Then, it reflects on how the Chilean student movement sought to delineate contestation to the dominant discourse on education as an economic domain and towards rupturing this neoliberal order ‘by reclaiming education in its political dimension’ ([5], p. 476). This contestation denotes a process of emergence of forms of rhizomatic heterotopias – in particular during the 2006 school occupations – as politics grounded on daily life and located in the social sphere. Politics of everyday life not only becomes counter-hegemonic to ‘the post-democratic transition consensus around a reformed neoliberal market-driven education agenda’ ([5], p. 476) but also subverts the meaning and influence of politics tied to ‘the knowledge and practice of the old left’ ([16], p. 15). The latter encompasses forms of autonomous egalitarian political relationships as a process of (re)politicisation produced as forms of egalitarian politics that are ‘continually adapting to change contexts and conditions’ ([17], p. 76). What features this process unveils the capacity of the Chilean student movement to articulate the grievance for free public quality education for all as a cross-cutting social and consolidate prefigurative egalitarian politics as what features new forms of (re)politicisation in the Chilean student movement.

Then, the bio-politics of existence in the Chilean student is unfolded. It refers to a process of re(vision) through which former student activists locate their political activism on the margins. The margins become ‘a politics of location’ where student activists began their revision process as ‘radical creative space which affirms and sustains [their] subjectivity ...and articulate their sense of world’ ([18], p. 153). Recognition of ‘learning through making mistakes’ (See [15]) is vital to the bio-politics of existence. It relates to both individual and collective identity processes by which student activists reframed their demand in spatial terms, that is, as a struggle to be resolved by the whole of society. Not only does the bio-politics of existence delineate new geographies of political activism, but also it directs at the movement efficacy by developing a rhizomatic resonance of free education as a cross-cutting demand. As such, the Chilean student movement sought to connect its demand for free public quality education for all to struggles led by social movements and civil society actors fighting against dispossession, poverty and inequalities entrenched in neoliberal agendas. This rhizomatic resonance constitutes a learning process within the Chilean student movement, and it connects with the possibility of articulating ‘convergence spaces’ [19], activating a ‘politics of mutual solidarity’ [17] and extending processes of (re)politicisation.

The article’s final section discusses the bio-politics of existence in a continuum for ‘radical political changes’ [20] in a post-2011 Chilean student movement scenario. It reflects on what features such a process and what mediates the potentiality of

rhizomatic egalitarian politics to reinvent politics and push agendas for transforming democracy. The bio-politics of existence cannot be detached from the emergence of a neoliberal democratic political subjectivity produced through technologies of the self and governed by the principles of autonomy, individuality and choice [21]. This neo-liberal democratic subjectivity encompasses a collective reflexive actor that recognises ‘the inescapable presence of difference ... and pursuing ways of achieving unity in diversity’ ([22], p. 18). Thus, rhizomatic egalitarian politics marks out the possibility of the emergence of a popular civil society governed by certain neoliberal techniques of the self, associated with unfulfilled neoliberal promises, which simultaneously become the drivers for (re)politicisation characterised by temporal contingent forms of oscillating individual activism and collective mobilisation.

2. Bio-politics, governmentality and heterotopias

In Foucault’s work, the debate on the bio-politics is derived from the notion of biopower, understood as the practice and form of regulation of modern nation-states on subjects and their bodies [23]. Thus, Foucault’s notion of bio-politics refers to ‘a new technology of power ... [that] exists at a different level, on a different scale, and [that] has a different bearing area, and makes uses of different instruments’ [24]. New technologies of power are inextricable linked to the concept of governmentality that ‘includes a wide range of control techniques that make subjects governable’ ([25], p. 814). Thus, bio-politics mediates a process of subjectification through power techniques and forms of knowledge production, operating directly as a form of ‘*representation*’ upon which ‘governments define a discursive field in which power is *rationalised*’ and through specific forms of ‘*intervention ... as political technologies*’ ([26], p. 191).

In his 1979 Lectures, *The Birth of the Biopolitics*, governmentality assumes a central role in the analysis of neoliberalism, in particular German post-war liberalism and the liberalism of the Chicago School, acknowledged as its most radical form. In Foucault’s analysis, the distinction between government and governance draws attention to individual choice and government as ‘market governance’ [27]. Thus, bio-politics aims to regulate ‘forms of governance that encourage both institutions and individuals to conform to the norms of the market’ ([28], p. 12), with the market being an essential cornerstone of neoliberal modern techniques of governmentality.

In Foucault’s work, the actual way that power and neoliberal governmentality are distributed in societies is commonly seen in terms of the state as a ‘distinctive institutional structure’ [29], as a form of discourse, for example, ‘validation of knowledge’ organised around dynamics of ‘marketisation, performativity and enterprising individual’ ([30], p. 409), as self-control and regimes of power for families, children and households, to name a few. In other words, Foucault’s analysis is on government as ‘the conduct of conduct’ and as a term which ranges from ‘governing the self’ to ‘governing others’ [12].

The debate on principles such as autonomy, individuality and choice, ruling both technologies of the self and neoliberal governmentalities, draws attention to power, freedom and resistance and how their mutual interdependence is critical to the debate on governmentality. The production of subjectivities by neoliberal governmentality calls us to think about subjectivity as a site of struggle [31] to contest or escape norms mediated by bio-politics. In Foucault’s work, concepts such as power/knowledge, discourse, disciplinary and bio-power have long been used in ‘the debate about

non-state and adversarial forms of politics' [32–35]. However, the debate on Foucault's contribution to the field of power and resistance studies still needs to be expanded as it is argued that Foucault's work primarily focuses on the regimes of power rather than on forms of resistance and alternative politics [32, 36].

This critique is addressed by exploring Foucault's concept of heterotopia – understood as 'counter-sites' in which the order of things is challenged ([14], p. 169). Heterotopia refers to the concept of 'counter-conducts' [37]. It is also understood and framed as an analytical approach to looking at 'the specific practices and rationalities of protests, which themselves work to constitute particular identities and subjectivities through the performance of dissent' ([32], p. 236). It is argued that heterotopia constitutes spaces of alternative ordering that offer analytical utility for describing and comparing social movements and protests [14].

Foucault's concept of heterotopia might encompass 'juxtaposed several incompatible emplacements in a single real location; entail temporal discontinuity' and therefore 'being closed and isolated, yet open and penetrable' ([14], p. 171). Heterotopias constitute experimental spaces that offer an 'escape route from power' and 'lines of flight' [29]. For Foucault, resistance is a practice exercised from many points and 'spread over time and space at varying intensities, at times mobilising groups and individuals in a definite way' [38].

Such potentiality of resistance, disruption and alternative order of things requires rendering visible 'the neoliberal modes and technologies of governmentality' ([31], p. 86). Nevertheless, debate on Foucault's concept of resistance must consider that biopolitics and neoliberal modes of governmentality have been set down by neoliberal rationality that seems to be more challenging to define as neoliberalism constitutes a "rascal concept – promiscuously pervasive, yet inconsistently defined, empirically imprecise and frequently contested" ([39], p. 182). How does resistance against normalised neoliberal governmentality occur? Central to this question is the acknowledgement that both resistance and contestation are the results of the construction of subjectivities as '*processes of becoming* that focus on *what we do* rather than on *what we are*, that is to say, the work of *the care of the self*' ([31], p. 87) [40]. Thus, the tight interrelationship between power and resistance encompasses an endless process of construction of our subjectivity (re)configured upon 'our understanding of ourselves [that] is linked to the ways in which we are governed' ([41], p. 14).

The process of subverting and reinventing our subjectivities – within a resistance/power paradox – is inextricably tied to the constructive process of collective identity. Melucci's work [4, 42] on collective identity – acknowledged as 'the most systematic, comprehensive and influential theory of collective identity' ([43], p. 394) – emphasises the conceptualisation of collective identity as a constructive process oriented towards the production of cognitive frameworks. This notion of collective identity offers insightful theoretical contributions to understanding resistance and contestation to 'the biopower's normalising strategies in the production and regulation of docile bodies' ([32], p. 237).

Social movements engage with cognitive frameworks concerning definitions of ends, means and fields of action, which do not necessarily entail unified or coherent meanings [42] but rather 'different and contradictory definitions' ([43], p. 395). So, the constructive process of collective identity underpins the formation of resistance practices, such as rhizomatic heterotopias, as transformative spaces characterised 'by no beginning or end' [14]. Rhizomatic heterotopias constitute malleable spaces of resistance, spreading in all directions and encompassing 'a multitude of differentiated meanings, forms of action and modes of organisation' ([42], p. 13) through which

social movements seek to (re)configure specific practices of resistance towards altering the order of forms of neoliberal political-economic governance [29], both constituted ‘within mundane and immediately practices of everyday life’ [44] and located at the interplay of highly differentiated historical, political and economic contexts.

3. The rise of a neoliberal model of education in Chile

The widespread adoption of neoliberalism is partly explained by the critiques of the welfare state, particularly in America and Britain in the 1970s, characterised by ‘prolonged unemployment, rising inflation, a crisis in the supply that Keynesian models were unable ‘to explain or rather correct’ ([45], p. 7). Chile became ‘the epicentre of the Chicago experiment’ ([46], p. 63), although it is often not mentioned. In the 1950s, a US government-sponsored covenant between the *Pontificia Universidad Católica de Chile* (The Pontifical Catholic University of Chile [PUC]) in Santiago de Chile and the School of Economics at the University of Chicago was to be set up for training one hundred postgraduate students in economics between 1957 and 1970.

Nevertheless, the history of neoliberalism starts ‘with Thatcher and Reagan’ because ‘it is much more flattering in that way’ [47]. Chile became an undebated example amongst neoliberal political economists because of authoritarianism and lack of political freedoms in which the Chicago School’s approach to liberalism, notably Milton Friedman’s theories, was imposed and tested.

A key element in Foucault’s analysis of neoliberal governmentality, particularly on the form of liberalism of the Chicago School’s approach, refers to how the consistent expansion of market relationships seeks to govern all spheres so that any difference between the economic form and the social sphere is elided [26]. The US neoliberals attempt to redefine the social sphere as an economic domain, for instance, social relations and individual behaviour being deciphered in terms of economic categories. Similarly, the market rules the assessment of governmental practices to show ‘whether they are excessive or entail abuse, and to filter them in terms of the interplay of supply and demand’ ([26], p. 198) [48]. The latter does not mean, however, a diminished role of a neoliberal state model. Rather, it is argued that it exists as a continuum between ‘specialised state apparatuses’ and ‘technologies for leading and controlling individuals without at the same time being responsible for them’ ([26], p. 201). So, what features a neoliberal governmentality starts from the intertwinement of a ‘responsible and moral individual and an economic rational actor’ ([26], p. 201). It is actively reinforced by neoliberal economic rationality that accounts for the expression of free will based on a self-determination decision and individual responsibility regarding its consequences. Therefore, a responsible and rational individual whose responsibility in all sorts of areas ‘becomes as a matter of personal provision’ [49, 50].

Chile became the epicentre for the US Chicago School’s neoliberal economic rationality following Pinochet’s military coup on September 11th, 1973. A neoliberal economic free-market reform, ideologically designed by a group of economists known as the Chicago Boys – because they adhered to the orthodox neoliberal theories of Milton Friedman at the University of Chicago School of Economics – endeavoured to modernise Chilean society by targeting the transformation of the ‘provision of social security, health and education’ ([51], p. 22).

The roll-out of the Chilean neoliberal experiment in education into a market-oriented educational system ([52], p. 110) represented ‘the most profound transformation ever experienced in Chilean public education’ ([53], p. 4). Not only this

neoliberal economic reform in education accorded to the bureaucratic and authoritarian project of modernisation by Pinochet's dictatorship, but it also derived the roll-out of a 'Silent Revolution' [54] focused on 'promoting individualism and competitive relations between individuals' and on reshaping the borders of 'the collective outlook of social organisation in Chile' ([54], p. 210) as a form of individual responsibility.

Consequently, a neoliberal free-market economic policy is geared towards structuring neoliberal governmentality as education is structured as a 'specific form of *intervention*' ([55], p. 191) to shape a neoliberal democracy defined by Pinochet dictatorship as an 'authoritarian, protected, integrated, technical and authentic social participation' ([54], p. 202). Thus, the possibility of rolling out the first laboratory of neoliberal state formation in Chile is flanked by the lack of political freedoms, proscription of political parties and a full scale of political repression that explains why 'the neoliberal social sector reforms went farther in Chile than in other countries' ([56], p. 75).

In the advent of a democratic government in Chile, a coalition of centre-left parties, known as the *Concertación*, assumed office in March 1990 and led the implementation of a new programme of growth with equity. This developmental strategy stood between social democracy and free-market capitalism to become a 'potential Third Way option for Latin America' ([57], p. 5). It is acknowledged as a line of continuity with the reforms initiated by Pinochet's dictatorship.

'Clearly, the shift in regime type is dramatic – a bureaucratic authoritarian one replaced by a democratic one. However, this political form does not define the state that it manages. The Chilean state retained and deepened its capitalist features during the 1990s through further liberalisation and privatisation strategies, continuing the capitalist accumulation model imposed by the Chicago Boys economic team from 1975. This can be described as continuity in the form and orientation of the state; thus, *continuidismo* has transcended the transition in the regime type' ([58], p. 359).

In the field of educational policies, the development strategy of growth with equity was proposed as the optimal route to make quality education available for all. Such an approach reflected a new focus by the governments of the *Concertación* (1990–2010) on social democracy and economic policies that promoted 'equality of opportunities rather than of outcome' ([59], p. 30). Equity aimed at the 'integration of the population, with access to the basic benefits of the state for all, in order to achieve equality of opportunity and lives with dignity for all' ([54], p. 250). Equity, in the onset of educational policies from the 1990s, intersected with the implementation of universal and comprehensive programmes to improve quality education for all and the development of targeted compensatory programmes to enhance equal opportunities amongst disadvantaged students at the poorest primary and secondary schools, as a principle of equity [60]. Such targeted compensatory programmes mirrored – as a principle of equity – a 'safety net' understood as 'general security but at the lowest level' ([61], p. 206).

As decades have passed, neoliberalism is 'no longer a dream of Chicago economists or a nightmare in the imaginations of leftist conspiracy theorists; it has become a common sense of the times' ([62], p. 38). In the context of Chile, the democratic legitimisation of the first laboratory of neoliberal state formation – initiated during Pinochet's dictatorship – on the one hand, encapsulated *continuidismo* or the continuity of neoliberal state formation, as part of a negotiated transition to democracy with the authoritarian regime. Furthermore, *continuidismo* led to consensual neoliberal governance as *policing* [63] the prevailing order of the post-democratic transition consensus around a reformed neoliberal market-driven education agenda [5].

While the latter seems to place the debate on governmentality in policymaking, the roll-out of the Chilean neoliberal experiment in education cannot simply be read off in terms of policies. Instead, it construes, first and foremost, a political project to radically transform Chilean society. Indeed, a neoliberal free-market-driven education agenda shaped ‘a new topography of social domain’ ([26], p. 203), encompassing forms of governmentality of individualism, meritocracy and marketisation. It is precisely the failure of these policies and their discursive construction of equity and fairness they aimed to bring about that ended up being contested by the Chilean student movement.

From the development of a ‘massive and well-articulated critique of schooling in Chile’ ([64], p. 32) in 2006 to the 2011 massive student mobilisations – which ruptured the post-democratic consensus around the neoliberal free-market ideology that has dominated the most radical transformation of the Chilean education system ([5], p. 476) – the Chilean student movement’s contestation to the neoliberal common sense in education entwined with the emergence of a new political subjectivity. This subjectivity, produced by neoliberalism, ended up challenging the very terms of a post-authoritarian neoliberal democratic transition through engaging with sites of struggles and resistance to forms of technologies of governmentality produced in and through a reformed neoliberal market-driven education agenda. This new political subjectivity subverted this agenda, and it became the milieu for new forms of political activism and (re)politicisation to prefigure the contestation of neoliberalism as a policy, governmentality and ideology.

4. Prefiguration of an egalitarian, autonomous secondary student movement

Prefiguration of non-hierarchical egalitarian autonomous democratic politics is at the centre of the strategy by which the Chilean student movement did seek to subvert ‘the post-democratic transition consensus’ ([5], p. 476) on a reformed neoliberal education agenda and transform the character of politics in a society regarded as the first laboratory of neoliberalism. Prefiguration speaks directly to the process of political reconstruction led by high-school student activists in the early 2000s – at the group of oldest public schools, known as the emblematic schools – and the reinvention of youth politics by pushing the transformation of old-fashioned forms of student organisation to transform ‘the patterns of grassroots student participation’ ([15], p. 199). *Colectivos* (collective), defined as ‘smaller groups of students that represented the inorganic left’ ([65], p. 6), which, too, encompassed a multiplicity of political identities and sub-cultures that characterised the left (See [15]), played an essential role in successfully pursuing the transformation of secondary student movement in the early 2000s. They created the *Asamblea Coordinadora de Estudiantes Secundarios* (The Coordinating Assembly of Secondary Students) as a form of student organisation, focused on the development of egalitarian and non-hierarchical relationships through experimentation with direct democracy and autonomous forms of participatory decision-making.

The Assembly ‘marked an important generational hallmark’ ([15], p. 203) within the secondary student movement as it did come as part of a political strategy that aimed to break up a closed system of politics derived from ‘the knowledge and practices of the old left’ ([16], p. 15). It represented an attempt to strike a balance between traditional militancy, such as the Communist Youth, and *colectivos* to transform the ‘power geometry’ [66] of politics within the secondary student movement. Such a

process engages with the production of politics that weaved 'a libertarian and egalitarian ethos in the movement's own structures, social dynamics and lifestyle' [67].

Everyday schooling was strategic for student mobilisations led by the Assembly. Education became a common space for mobilising students and the transformative character of grassroots activism. Thus, demands on what constrained everyday schooling experience challenged the traditional places and spaces where politics was commonly produced and found (See 15). As a student notes:

We discovered that students we thought should be organised were neither in the political youth headquarters nor in institutional spaces. Rather they lived a daily life, and when we found each other, we realised it was a much more normal dynamic than we would expect to find (Interview with Cesar).

Transformation of the power geometry of politics within the secondary student involved politicising everyday schooling experience at the grassroots level, around very concrete demands, which, too, were detached from grand narratives. As a former student activist notes:

People are interested in other things. I mean, the Communists came with a hyper-structured discourse on public education. However, my classmates were worried about other things. The problems of my classmates were that they had bad teachers; they did not have good quality education. However, colectivos started to introduce those demands I mentioned, like quality education, wearing long hair and the like. They were very concrete things, which were quite far away from what the Communist Party's discourse was (Interview with Sebastian).

For grassroots students, what constrained their daily schooling experience became an essential component of a politics of commonalities, that is, the 'cultivation of new forms of commonalities' [68] or what they have in common with others. A politics of commonalities not only was mediated by interrelatedness but also encompassed individual commitment that is no longer opposed to the sphere of collective action (See 15). Thus, prefiguration of everyday schooling experience as an 'actual mobilisation or strategy' [69] engages with a politics of commonalities, lived in the present and characterised by the acknowledgement that 'everyone is similar to oneself' ([70], p. 465). As such, self-representation becomes central to both the instrumental function of the Assembly and the political strategy of politicising the social sphere that *colectivos* and the most politicised students placed at the centre of the process of political reconstruction of the secondary student movement (See [15]).

Prefiguration of egalitarian political relationships and the creation of the Assembly, based upon the principles of *horizontalidad* (horizontality), direct democracy and autonomy, did not emerge to articulate 'what has been disarticulated politically and socially' ([15], p. 207). Instead, they arose as a mode of collective political organisation in which self-representation became a form of political action of new emerging political subjectivities. Thus, prefiguration of egalitarian political relationships concerned with politics that is 'subjective and collective' [71], prefigured as 'present-tense politics' [67], which, too, became the space for a generation who looked for its political self-affirmation rooted in the present and detached from the political narrative of the earlier secondary student movement.

As discussed, the prefiguration of egalitarian political participation stressed the aim of connecting politics with the social sphere. As an alternative form of

politics within the secondary student movement, it progressed from prefiguring political participation within local spaces to becoming the democratic structure for democratic participation. Nevertheless, what did mediate this process? This question draws attention to the Penguins' movement that emerged in 2006 to call for education to be a right, not a privilege, by demanding equal opportunities for quality education for all.

5. The rise of the penguins' movement: To occupy education

Between March and June 2006, massive high-school student-led protests, known as the Penguins' movement – because of their white and black school uniform – spread across the country to demand equal opportunities for quality education for all. This demand surfaced due to a cumulative effect of the preceding student movement struggles that speak directly to the process of political reconstruction led by high-school student activists in the early 2000s. While this grievance resembled the political task of connecting with demands students valued, it also became 'an important force of momentum' ([17], p. 51) for the Penguins' movement. Firstly, the demand for equal opportunities for quality education for all sought to gain the support of a wider public, highlighting how a reformed neoliberal agenda on education – implemented by the governments of the *Concertacion* – failed to bring about the promise of social mobility and equality of opportunities for the middle class. Therefore, 'student protests in 2006 interpreted the aspirations of a middle class that had not been delivered' ([72], p. 62).

Secondly, massive high-school student-led protests, particularly high school occupations, encompassed a spatial fracturing within the secondary student movement. On the one hand, school occupations involved mobilising high schools without a long-standing trajectory of student activism (See [5, 15]). Moreover, this repertoire of collective mobilisation coalesced with the involvement and participation of a new political actor 'that did not have ties with the recent past, but was engaged with prefiguring occupation as a different space for different forms of political agency and participation' ([73], p. 368).

While school occupations were acknowledged as part of the classic action repertoire of the secondary student movement, the 2006 school occupations were endowed with different meanings and values. Firstly, they were imbued with a place-specific discourse of safety to question heavy-handed policing over the right to protest. Thus, school occupations were justified as a political strategy to guarantee the safety of the students from riot police tactics (See [15]). Furthermore, school occupations become places and spaces for the practice of care of the self. Such a practice intersects with the self-affirmation of a generation not growing up 'within the dictatorship/democracy dichotomy' ([15], p. 221). So, in the context of heavy-handed policing over the 2006 high-school mobilisations, a practice of protecting the self is built upon self-affirmation of what students lived and experienced when they demonstrated and of a generational breakdown that attempted to legitimise social mobilisation within a post-authoritarian democratic society.

As discussed, school occupations weaved a spatial fracturing within the Penguins movement as this repertoire of collective action orientated itself towards 'counter-conducts' [37] that challenged the contours of neoliberal governmentality and practices of rationalities of education. Students occupied schools to reclaim them like their houses:

A group of high schools put forward the idea of occupations. However, 50% of students were against this idea as they believed it was a more radical mobilisation, while the other 50% were in favour. They argued that occupations were neither a radical action nor drastic but rather a coherent idea. It is because, for many of us, the school has to be our space where one can think, create and do. It is not about sitting down, listening to a good or bad teacher and receiving information. So, it seemed a very good idea to occupy our house; the school became like yours during the occupation (Interview with Carolina).

Occupations become counter sites to reclaim education and alter the order of things in the schooling experience. In reclaiming schools as their houses, students questioned those governmental forms of power as essential control techniques in and through education. By occupying schools, students create 'their own space' [74] where they 'engaged with practices that are rule-breaking of the domain of control exercised' ([74], p. 31) in and through education. As a student activist notes:

The funniest thing during the occupation was that we could do whatever we wanted to do at school because the school was ours. Because of the level of repression at the school, we all wanted to do many things; we wanted to be in those places we were not allowed to be for example, at the school offices, everyone wanted to be on the roof, walking on the roof.

Spatiality did embody resistance and contestation to what governs the relationship between a subject and education space by transforming 'his relationship to his own body' ([74], p. 40). Thus, 'occupation is about occupying education by challenging what has been socially imposed as education space' ([15], p. 245), that is, 'prohibition ... and the dislocation of their most immediate relationship' ([74], p. 35). Thus, walking on the roof and being in the school offices constituted forms of political action to reclaim education by challenging the power relations through which it is produced ([15], p. 245).

As such, school occupations 'did come to mean more than massive sit-ins' ([15], p. 246) as school occupations ended up developing into re-appropriation of schooling experience as a different positionality of those who were involved in the student movement, which, too, involved a different socio-spatial positionality as school occupations entailed consolidating a different sense of community. Therefore, school occupations constitute, first and foremost, heterotopias or counter-sites in which education is contested and re-appropriated by breaking down those constitutive relations governing the spatiality of the schooling experience.

A rhizomatic growth of school occupations, in particular mobilisation of high schools in the margins of traditional nodes of student activism (See [5, 15, 75]), became central for legitimising the demand for equal opportunities for quality education for all raised by the Penguins' movement. Such legitimisation did not only rely on the massive number of school occupations; the mobilisation of schools – in the periphery of central nodes of student activism – legitimised this political demand by 'reasserting that unequal opportunities for quality education happen in certain places' ([5], p. 479). Waves of school occupations also became a condition of possibility to further instal the Assembly as the space for developing non-hierarchical egalitarian autonomous democratic politics (See [15]). Prefiguration of direct democracy, egalitarian political participation and non-hierarchical structures became identity politics within the Penguins' movement. This politics is mutually constitutive of a different

political meaning of *us*. Therefore, school occupations become key places and spaces for the constructive process of a collective identity as a transformative collective political action that meant being united and no longer alone and through which the Penguins become a movement.

6. The bio-politics of existence and the rhizomatic resonance of the 2011 Chilean student movement's collective action

Notwithstanding the academic and policy debate that the Penguins' movement opened up about the failures of a market-oriented education system, it was regarded as a movement with a limited 'political victory' [75] since the Penguins' demands were met with only limited technocratic reforms that did not bring structural reforms of a market-driven education system, such as making profit-making in education illegal. Five years later, one of the largest student protests in the post-democratic transition era, mainly led by grown-up disenfranchised Penguins, emerged to call for radical reform of the education system by demanding free, public quality education for all and to end profit-making in education.

How did former secondary student activists navigate a post-2006 Penguins' movement scenario? While analysis of the possibilities and limitations of political capacity within the Penguins' movement seems to be confined to a 'resolutionary approach' [42], it could be contrasted with listening to what former student activists reflected on this student movement even before its direction and content have become clear:

The Penguins' movement had some conditions, but at the same time, it was not quite aware of this. We tackled these conditions without awareness and without developing an important political reflection as we would have now. It was less reflective and much more intuitive. It was not like the movement we have right now. However, we addressed an important issue about the end of profit-making in education. How many of us were conscious at the end of the day that profit was the backbone of the current neoliberal system? Perhaps, we wanted to tear something down, which was the main axis of the system, without being too conscious about it (Interview with Pat).

As argued elsewhere, 'intuition, more than a reflective political capacity, underpins the process through which students challenged neoliberal "governmentality" by questioning the promises of quality and equity that the neoliberal agenda on education from the 1990s failed to bring about' ([15], p. 260) [73]. Understanding how the Penguins' movement demand for education to be a right, not a privilege, morphed, as Pat's comment addressed, into a more structural demand entails looking at the constructive process of collective identity. In a post-2006 Penguins' movement scenario, this process of collective identity is mediated by the acknowledgement that the lack of political experience of the Penguins' movement to mobilise political alliances that met the demands of this student movement was a mistake. Such recognition is deeply embedded with emotions that remained key to reimagining their political agency and collective action in 2011. Emotions mobilised the possibility of relocating mistakes as a necessary step towards the movement's continuity and collective action over time. As a student activist highlights:

There were more mistakes than successes, with all the emotional implications of this. However, it was also valuable as our mistakes have helped us today. It was valuable to take the time from 2006 and wait quietly until now. A very quiet process took place. It was about waiting, and it was not bad at all to do it in such a way. It was like waiting for the moment in which this could emerge again. Now we are in the second attempt; of course, we have learnt from our own mistakes (Interview with Nicki).

While learning through making mistakes and through waiting could describe how the Chilean student movement borderlands between defeat and continuity across time, particularly during latency periods (See [5, 15]), this also represents a process embodying a relocation of student activism as being on the margins and as a space of resistance through which student activists fashioned a 'process of (re)vision' ([18], p. 145) of their political agency.

Recognition of learning through making mistakes is vital to the bio-politics of existence, as an identity politics through which student activists reimagine politics as transforming life itself into political action. In some way, the bio-politics of existence relocated a meaning of politics as grounded in spaces of daily life and as an experiential process of politics as 'being-in-common' [17]. The bio-politics of existence encompassed a process of re (vision) through which former student activists located their political activism on the margins. The margins become 'a politics of location' where student activists began their revision process and constituted 'radical creative space which affirms and sustains [their] subjectivity ...and articulate their sense of world' ([18], p. 153).

Not only does the bio-politics of existence delineate new geographies of political activism; it also directs at the movement efficacy by amplifying free education as a cross-cutting demand. Central to this process is developing a rhizomatic resonance by which the Chilean student movement sought to connect its demand to struggles led by social movements and civil society actors fighting against dispossession, poverty and inequalities entrenched in neoliberal agendas. A rhizomatic resonance involves the production of 'convergence spaces' [19] as sites that activate and multiply a politics of mutual solidarity [17]. Thus, the bio-politics of existence is not limited to an individual sphere of political agency. Rather, it pursues a strategy of building grassroots networks and alliances amongst different mobilised social actors.

In 2011, mobilised grassroots student activists aimed to become a 'coalition network' [19] through the production of territorial assemblies as convergence spaces that further generated the main legacy of the 2011 Chilean student movement. Territorial assemblies represented bottom-up experiences of radical democratic politics, as a politics that not only needs heterogeneity but also depends on it [76] and through which the Chilean student movement sought to embody and extend the horizons of its political action with others 'to articulate certain collective visions [and] generate a politics of mutual solidarity' ([17], p. 97).

Through territorial assemblies and radical democratic politics, student activists did make room for the political condition for cross-movement mobilisation to articulate the demand for free, public quality education for all as a cross-cutting social demand. As a result, space and politics come together and open up the possibility of re-envisioning the movement's demand in spatial rather than in temporal terms, that is, as a social struggle that will involve the whole of society. Thus, expanding the horizons of collective action with others represents the main legacy of the 2011 Chilean student movement.

7. Conclusion

The Chilean student movement constitutes a remarkable case to understand how heterotopias, as sites of resistance, happen and what characterises such practices. From the process of political reconstruction of the secondary student movement, which led to the emergence of the Penguins' movements and its massive and well-articulated critique of schooling in Chile' ([65], p. 32), to the 2011 massive student demonstrations to call for the radical transformation of the Chilean education system, heterotopias engineered alternative discourse formations to rupture 'the post-democratic transition consensus around a reformed neoliberal market-driven education agenda' ([5], p. 476).

Nevertheless, this process was more expansive than just policymaking. Instead, it targeted 'radical changes in politics' ([20], p. 262) from within the system. This process is intertwined with a political subjectivity that subverts and reinvents politics to reclaim a new meaning of being political, which, too, is mutually constitutive of the bio-politics of existence. From the election of four former student leaders in 2013, the creation of the *Frente Amplio* (FA- Popular Front) in 2017, to the election of a former student leader as the new Chilean president in December 2021, the Chilean student movement could be interpreted as the political actor that has 'pus[hed] the democratisation of institutionalised democracy' ([8], p. 260). Analysis of how the bio-politics of existence is spread within and across spaces of institutional framework or the constellation of contingent factors that might (or might not) reconfigure it is beyond the scope of this article. Nevertheless, it is worth highlighting that the bio-politics of existence ended up challenging 'the classic binaries of political thought' ([32], p. 235) as it seeks to radically transform the state by 'captur[ing] ever more space within the state' ([77], p. 33).

Undoubtedly, the Chilean student movement has profoundly transformed politics within a post-authoritarian neoliberal society as the prefiguration of egalitarian political relationships has been conducive to the rhizomatic growth of (re)politicisation. Prefigurative politics and their experimentation with more participatory and autonomous forms of democracy have become a '*non-negotiable democratic*' form for the 'reinvention of politics' [8] for social movement mobilisations that followed the 2011 Chilean student movement scenario.

In a post-2011 scenario, the bio-politics of existence connects with 'resistance identities' ([78], p. 8), understood as identity politics 'generated by actors who are repressed, stigmatised or devalued by the structure of domination in a given society' ([22], p. 131). This identity politics became an integral part of the formation of the Chilean student movement and its capacity to articulate, through demanding free, high-quality education for all, a larger political strategy to contest neoliberalism in Chile. What does this identity politics' potential to continue mobilising groups, civil society and social movements rely on?

Firstly, the process of formation of the Chilean student movement contributed to the understanding that the bio-politics of existence rests upon 'the self-reflexive capacity of social actors to recognise themselves and the field of opportunities and constraints in which they are located' ([22], p. 132). As a result, the process of (re)politicisation in the context of a post-authoritarian society started, first and foremost, because of the failure of a neoliberal consensus in and around a reformed free-market-driven education agenda. Upon contesting this 'politics of truth' [55] or prevailing order, a post-hegemonic movement to neoliberal consensus emerged.

Moreover, the bio-politics of existence stays in movement across different spaces and places where politics have yet to be produced. It is ‘exercised from many points’ upon which this identity politics ‘swarm’ ([23], pp. 94–96). Such a process delineates ‘the distinctive features of today’s’ (re)politicisation ([8], p. 262) and the emergence of a new political subjectivity grounded on daily life, which, too, politicises its own reality. These new actors and their forms of politicisation are mutually constitutive of ‘the multitude’ [79] and as political subjectivities that can collectively mobilise and then return to the form of lifestyle activism.

Such oscillation between collective forms of political mobilisation and the self-reflexive capacity of social actors describes what features the contemporary process of (re)politicisation within post-authoritarian neoliberal democratic societies such as Chile. This (re)politicisation process overlapped with different forms of contestation to the order of things and simultaneously with the unpredictability of what the establishment of a new order would look like. Thus, unpredictability resonates, to some extent, with ambivalence regarding what constitutes the transformative potential for which social movements have been campaigning for so long. Nevertheless, for mobilised social actors, such as the Chilean student movement, unpredictability becomes quintessential for the rhizomatic growth of an egalitarian political movement. Such a rhizomatic process of egalitarian, participatory politics has been unpredictable and ‘discontinuous in their spreading’ [22] as it has happened in all directions. Nevertheless, over the last two decades, this rhizomatic egalitarian politics has shed light on understanding both the transformation of the character of politics in a society regarded as the first laboratory of neoliberalism [1] and the potentiality of the demand for education to be a right, not a privilege, to become a ‘question of resonance’ ([10], p. 169) to mark out the possibility of rupturing the hegemony of neoliberalism in Chile as a policy, governmentality and ideology.

Conflict of interest


“The authors declare no conflict of interest.”

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References

- [1] Harvey D. *Spaces of Global Capitalism: A Theory of Uneven Geographical Development*. London: VERSO; 2019
- [2] Motta SC. Alf Gunvald Nilsen. *Social Movements in the Global South: Dispossession, Development and Resistance*. Hound Mills, Basingstoke, Hampshire. New York: Palgrave Macmillan; 2011
- [3] Motta SC. Old tools and new movements in Latin America: Political science as gatekeeper or intellectual illuminator? *Latin American Politics and Society*. 2009;**51**(1):31-56
- [4] Melucci A. *Nomads of the Present : Social Movements and Individual Needs in Contemporary Society*. Philadelphia: Temple University Press; 1989
- [5] Hernandez I. The geographies of collective identity in the Chilean student movement. *British Journal of Sociology of Education*. 2019;**40**(4):475-489
- [6] Beck U. *The Reinvention of Politics Rethinking Modernity in the Global Social Order*. Cambridge, UK: Cambridge Polity Press; 2005
- [7] Mouffe C. *The Return of the Political*. London: Verso Books; 2020
- [8] Blühdorn I, Deflorian M. Politicisation beyond post-politics: New social activism and the reconfiguration of political discourse. *Social Movement Studies*. 2021;**20**:1-17. DOI: 10.1080/14742837.2021.1872375
- [9] Kioupkiolis A. Movements post-hegemony: How contemporary collective action transforms hegemonic politics. *Social Movement Studies*. 2017;**17**(1):99-112
- [10] Holloway J. *Zapatismo Urbano*. *Humboldt Journal of Social Relations*. 2005;**29**:168-178
- [11] Foucault M. In: Burchell G, Gordon C, Miller P, editors. *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault*. Chicago: University Of Chicago Press; 1991
- [12] Foucault M. The subject and power. *Critical Inquiry*. 1982;**8**(4):777-795
- [13] Foucault M. In: Martin LH, Gutman H, Hutton PH, editors. *Technologies of the Self: A Seminar with Michel Foucault*. London: Tavistock; 1988
- [14] Beckett AE, Bagguley P, Campbell T. Foucault, social movements and heterotopic horizons: Rupturing the order of things. *Social Movement Studies*. 2016;**16**(2):169-181
- [15] Hernandez I. Space and Politics in the Penguins' Movement: Geographies of the Political Construction of the Chilean Student Movement. *University College London*; 2017 Available from: <https://discovery.ucl.ac.uk/id/eprint/1549607/>
- [16] Zibechi R. Subterranean echos: Resistance and politics “desde el Sótano.”. *Socialism and Democracy*. 2005;**19**(3):13-39
- [17] Routledge P. *Space Invaders: Radical Geographies of Protest*. London: Pluto Press; 2017
- [18] hooks bell. *Yearning: Race, Gender, and Cultural Politics*. New York: Routledge, Taylor & Francis Group; 1990

- [19] Routledge P. Convergence space: Process geographies of grassroots globalization networks. *Transactions of the Institute of British Geographers*. 2003;28(3):333-349
- [20] Della Porta D. *Democracy in Social Movements*. Basingstoke: Palgrave Macmillan; 2009
- [21] Rose NS. *Inventing ourselves: Psychology, Power, and Personhood*. Cambridge, England; New York: Cambridge University Press; 1998
- [22] Chesters G, Welsh I. *Complexity and Social Movements*. Oxford, UK: Routledge; 2006
- [23] Foucault M. *The History of Sexuality*. Vol. 1. Harmondsworth: Penguin Books; 1998
- [24] Foucault M. *Society Must Be Defended: Lectures at the Collège De France, 1975-76*. S.L.: Penguin Books; 2003
- [25] Madsen OJ. Governmentality. *Encyclopedia of Critical Psychology* [Internet]. 2014;814-816 Available from: https://link.springer.com/referenceworkentry/10.1007%2F978-1-4614-5583-7_126
- [26] Lemke T. "The birth of bio-politics": Michel Foucault's lecture at the Collège de France on neo-liberal governmentality. *Economy and Society*. 2001;30(2):190-207
- [27] Larner W. The legacy of the social: Market governance and the consumer. *Economy and Society*. 1997;26(3):373-399
- [28] Larner W. Neo-liberalism: Policy, ideology, governmentality. *Studies in Political Economy*. 2000;63(1):5-25
- [29] Hindess B. Politics and governmentality. *Economy and Society*. 1997;26(2):257-272
- [30] Apple MW. Comparing neo-liberal projects and inequality in education. *Comparative Education*. 2001;37(4):409-423
- [31] Ball SJ, Olmedo A. Care of the self, resistance and subjectivity under neoliberal governmentalities. *Critical Studies in Education*. 2013;54(1):85-96
- [32] Death C. Counter-conducts: A Foucauldian analytics of protest. *Social Movement Studies*. 2010;9(3):235-251
- [33] Bleiker R. *Popular Dissent, Human Agency, and Global Politics*. Cambridge: Cambridge University Press; 2000
- [34] Barry A. *Political Machines: Governing a Technological Society*. London: Athlone Press; 2001
- [35] Amoore L. *The Global Resistance Reader*. London, New York: Routledge; 2005
- [36] Simons J. *Foucault and the Political*. London: Routledge; 1994
- [37] Foucault M. In: Lotringer S, editor. *The Politics of Truth*. New ed. Los Angeles, CA: Semiotext(e); 2007
- [38] Johnson P. Unravelling Foucault's "different spaces". *History of the Human Sciences*. 2006;19(4):75-90
- [39] Brenner N, Peck J, Theodore N. *Variiegated neoliberalization: Geographies, modalities, pathways. Global Networks*. 2010;10(2):182-222
- [40] Ball SJ. *Foucault and Education: Discipline and Knowledge*. London: Routledge; 2012
- [41] Dean M. *Governmentality Power and Rule in Modern Society*. Los Angeles: Calif. Sage; 2014

- [42] Melucci A. *Challenging Codes: Collective Action in the Information Age*. Cambridge: Cambridge University Press; 2003
- [43] Flesher FC. Collective identity in social movements: Central concepts and debates. *Sociology Compass*. 2010;4(6):393-404
- [44] Ong A. Neoliberalism as mobile technology. *Transactions of the Institute of British Geographers*. 2007;32(1):3-8
- [45] Olssen M. *Liberalism, Neoliberalism. Social Democracy*: Routledge; 2009
- [46] Klein N. *The Shock Doctrine: The Rise of Disaster Capitalism*. London: Penguin; 2008
- [47] Klein N. *The Shock Doctrine* [2009] Documentary by Naomi Klein [Internet]. YouTube. 2017 [cited 2019 Nov 25]. Available from: <https://www.youtube.com/watch?v=B3B5qt6gsxY>
- [48] Garland D. 'governmentality' and the problem of crime: Foucault, criminology. *Sociology. Theoretical Criminology*. 1997;1(2):173-214
- [49] Rose N, Miller P. Political power beyond the state: Problematics of government. *The British Journal of Sociology*. 1992;43(2):173-205
- [50] Garland D. The limits of the sovereign state: Strategies of crime control in contemporary society. *British Journal of Criminology*. 1996;36(4):445-471
- [51] Taylor M. The reformulation of social policy in Chile, 1973—2001. *Global Social Policy: An Interdisciplinary Journal of Public Policy and Social Development*. 2003;3(1):21-44
- [52] Bellei C, Cabalin C. Chilean student movements: Sustained struggle to transform a market-oriented educational system. *Current Issues in Comparative Education*. 2013;15(2):108-123
- [53] Infante MT, Schiefelbein E. *Asignación de Recursos para la Educación Básica y Media*. Santiago de Chile: El Caso de Chile; 1992
- [54] Van der Ree G, Modernities C. *Projects of Modernisation in Chile, 1964-2007*. Amsterdam: Dutch University Press; 2007
- [55] Lemke T. Foucault, governmentality, and critique. *Rethinking Marxism*. 2002;14(3):49-64
- [56] Gauri V. *School Choice In Chile*. Pittsburgh: University of Pittsburgh Pre; 1999
- [57] Taylor M. *From Pinochet to the "Third Way"*. London, UK: Pluto Press; 2006
- [58] Barton JR. State Continuismo and Pinochetismo: The keys to the Chilean transition. *Bulletin of Latin American Research*. 2002;21(3):358-374
- [59] Keaney M. Book review: Social democracy, laissez-faire, and the "third way" of capitalist development. *Review of Radical Political Economics*. 2005;37(3):357-378
- [60] Cox C. *Políticas Educativas en El Cambio de Siglo*. Santiago de Chile: Editorial Universitaria; 2003
- [61] Foucault M. *The Birth of Biopolitics*. Hampshire: Palgrave MacMillan; 2010
- [62] Peck J, Tickell A. Neoliberalizing space. *Antipode* [Internet]. 2002;34(3):380-404 Available from: <https://onlinelibrary.wiley.com/doi/abs/10.1111/1467-8330.00247>
- [63] Rancière J. *Dissensus*. London, UK: Bloomsbury Publishing; 2015

- [64] Pinkney-Pastrana J. A wolf in Sheep's clothing or a sheep in Wolf's clothing: Resistance to educational reform in Chile. In: Macrine S, McLaren P, Hill D, editors. *Revolutionizing Pedagogy Education for Social Justice within and beyond Global Neo-Liberalism*. New York: Palgrave MacMillan; 2009. pp. 17-40
- [65] Donoso S. Dynamics of change in Chile: Explaining the emergence of the 2006 Pingüino movement. *Journal of Latin American Studies*. 2013;**45**(1):1-29
- [66] Massey D. Power-geometry and a progressive sense of place. In: Bird J, Curtis B, Putnam T, Robertson G, Tickner L, editors. *Mapping the Futures Local Cultures, Global Change*. London: Routledge; 1993. pp. 60-70
- [67] Gordon U. *Liberation Now: Present-Tense Dimension of Contemporary Anarchism. The Beginnings and Ends of Political Theory*. University of California, Berkeley. 2005
- [68] Guardian T. Radical thinkers: Simon Critchley's infinitely demanding. In: *Graduate Student Conference Thinking the Present: The Beginnings and Ends of Political Theory*. Berkeley, California: University of California; [Internet]. YouTube. 2013 [cited 2022 Jun 21]. Available from: <https://www.youtube.com/watch?v=05vThMv9oBk>
- [69] Yates L. Rethinking prefiguration: Alternatives, micropolitics and goals in social movements. *Social Movement Studies*. 2014;**14**(1):1-21
- [70] Evans MDR, Kelley J, Kolosi T. Images of class: Public perceptions in Hungary and Australia. *American Sociological Review*. 1992;**57**(4):461
- [71] Motta SC. Notes towards prefigurative epistemologies. In: Motta SC, Nilsen AG, editors. *Social Movements in the Global South: Dispossession, Development and Resistance*. New York: Palgrave Macmillan; 2011. pp. 178-199
- [72] Hernandez I. Continuing the conversation on the Chilean student movement. *Journal of Social Science Education*. 2013;**12**(3):60-67
- [73] Hernandez I. Remapping youth activism and citizenship in Chile through the legacy of the Chilean student movement. *Citizenship Teaching & Learning*. 2022;**17**(3):363-379
- [74] Lefebvre H. *The Production of Space*. Oxford: Blackwell; 1991
- [75] Cabalin C. Neoliberal education and student movements in Chile: Inequalities and malaise. *Policy Futures in Education*. 2012;**10**(2):219-228
- [76] Mouffe C. Transforming political consciousness. *Green. European Journal*. 2015;**11**:91-95
- [77] Burbach R. The radical Left's turbulent transitions. An overview. In: Ellner S, editor. *Latin America's Radical Left Challenges and Complexities of Political Power in the Twenty-First Century*. Plymouth: Rowman & Littlefield; 2014. pp. 27-42
- [78] Castells M. *The Information Age: Economy, Society, and Culture*. 1, the Rise of the Network Society. Chichester, West Sussex; Malden, MA: Wiley-Blackwell, Cop; 2010
- [79] Hardt M, Negri A. *Multitude: War and Democracy in the Age of Empire*. New York: Penguin Books; 2005

Legal Reform or Regime Coup? Three Stages in the Evolution of Protest Signs in Israeli Social Activism

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Abstract

In December 2022, protests began in Israel against proposals to reform the country's legal system. Some maintained this was a legal reform, while others contended it was a regime coup. Using multimodal discourse analysis, we analyzed 162 protest signs displayed during the 20 weeks of demonstrations from January 2023 through May 2023. We organized the evolution of the signs according to Lewis and Reese's three stages of communication: transmission, reification, and naturalization. For instance, the slogans that initially talked about a legal revolution (transmission) later changed to charges about attacks on democracy (reification) and, finally, a regime coup (naturalization). Findings show three main characteristics of the slogans: (1) focus on values such as the importance of democracy, (2) the expression of individual, subgroup and collective forms of protest, and (3) appeals to the international community to pressure the Prime Minister and the government. The findings also confirm the usefulness of Lewis and Reese's model, originally designed to analyze journalism articles, in assessing the text and visuals of protest slogans.

Keywords: social activism, protest signs, slogan, legal reform, regime coup

1. Introduction

Political, social and ideological issues in the public discourse, often displayed using slogans on protest signs, mutually shape each other [1]. 'Historically, images of social movements have helped to capture the power and potential of contentious policies in changing laws, overthrowing regimes and fighting perceived injustices' [2]. Researchers have noted that analyzing slogans provides insights into how political and social issues are presented to the general public. The choice of the text for the slogans and the protest signs is important in helping the general public understand the agenda of the protest and encouraging their attendance at demonstrations [3]. Social groups need visibility for their protests to succeed. In addition, the text and visuals of the demonstrators and the protest slogans convey the protesters' message to the general public and the authorities [3, 4].

Van de Velde [5] contended that the demonstrators' posters, signs, clothes and words are key elements for social groups, individually and collectively. All protest writing is a public expression whose visual power conveys a political message expressed in the written word. The slogans and text on the protest signs are becoming increasingly more personal. Nevertheless, they are designed to promote the collective agenda of the protest and, at the same time, directed at the general, local and global audience.

McGee [4] pointed out that political slogans are effective tools for persuasion, the expression of political goals, and a means of raising political consciousness and organizing a set of cultural attitudes. Slogans are also a form of "controlling consciousness." In his paper, "The 'Ideograph': A link between rhetoric and ideology," McGee [4] focused on the concept of "ideology." He maintained that slogans contain a vocabulary of "ideographs" depicting a society's political consciousness.

2. Literature review

2.1 Signs as a tool for mobilization

"Condensing symbols are verbal or visual images that neatly capture—cognitively and emotionally—a range of meanings and convey a frame, master frame, or theme. Organizers use such symbols to recruit members, especially those with different agenda. A powerful symbol lends credibility to an explicit argument by connoting the implicit assumptions embedded in worldviews and common sense" [6]. Protest signs are a visual form of communication used to express dissent, raise awareness, and mobilize people to take action. They are often used in conjunction with other forms of protest, such as marches, rallies, and boycotts. According to Kasanga [7], protest signs are not simply a means of communication but also a way of identifying social actors, creating frames of identity, and engaging in intertextuality and interdiscursivity. Such signs are often characterized by the use of slogans, catchphrases and images. They often draw on various sources, including popular culture, history and religion. Protest signs can represent people as members of groups or assign them particular roles. For example, a protest sign that says "Black Lives Matter" constructs Black people as a group facing discrimination. Similarly, a slogan that says, "We are the 99%," creates a frame of identity that pits the 99% of people struggling against the 1% who are wealthy and powerful [5]. Bahrudin, Bakar [3] also found that slogans are important for expressing a group's social and political ideology. The group uses them to begin the proactive process of conveying messages through the slogans via visual representations. This process happens in intertextual protest discourse.

2.2 Social movements' collective identity: Us vs. them

Social groups are a union and connection of individuals with the desire to bring about change [8–10]. Demonstrations are the main form of communication between the groups and their target audience [11]. McAdam et al. [10] refer to demonstrations as manifestations of "social change processes."

Designing a collective identity is a cultural process expressed in language and symbols. The sources of communication are a necessary condition for the success of this process [12]. The rapid growth of social networking sites demands reconsidering the meaning of mediated political participation in society [13]. In the past, the collective

identity was shaped by the media coverage of social groups. Given that language and symbols are part of the culture of the reading public, this coverage connected the reading public to the agenda of the social group. Commenting on the politics of identity, Melucci [14–16] argue that identity is not limited to knowing the members of the group by their self-identity. It also depends on others recognizing their unique identity and receiving societal legitimacy. Collective identity is a shared, interactive definition produced by several individuals (or groups at a more complex level). It involves actions and the opportunities and constraints in which they occur [15, 16]. Through this process, a community creates its identity.

Groups share common interests arising from the experiences and solidarity of their members [17]. Defining their identity results in identifying the social actors by themselves and by others as part of a wider group. Through this sharing, they give meaning to their experience [18]. Furthermore, slogans describe the identities on which the movements are based. They indicate the relationship between “I,” “us” and “them.” They also distinguish between the characteristics and goals of those affiliated with them and those opposed to them [16]. However, the “we” aggregate into a pool of individuals rather than a potential collective actor [16].

2.3 Protest writing as political performance: Telling the public who “I am” and “we are”

The role of slogans is to inform the general public of social and ideological reality and influence the shaping of that reality. Sharp [19] notes the ability of slogans to influence and motivate people to participate in protest actions to protect their position in society or their interests [3]. Barton [20] demonstrates that slogans communicate ideas and create a feeling of solidarity among the participants in the demonstrations designed to promote the group’s interests [3].

Protest slogans and signs have an expressive strength that conveys messages about rational and emotional dimensions. Beatrice Frankel (cited in [5]) describes public slogans as an “act of writing and language” that combines personal and group concerns. Van de Velde [5] describes them as a “political spectacle”, demonstrating the individual’s place in the signs through the slogans ‘Je suis Charlie’, ‘Me too’, and ‘I cannot breathe’. The individual’s protest uses public words that the audience can understand and identify with because they come from their personal experience in the social situation. As a result of the increase in the place of the individual within the collective, a distinction is made between individual and collective writing. The collective message can be seen in the use of words representing a collective such as “we” and “us.” This expression corresponds to conduct on social networks that strengthens the “me” in public concerns.

Indeed, in the view of Castells [21], protest writings are characterized by increased media awareness and the potential to spread messages beyond the crowd of protesters participating in the event. Variations in the potential audiences prompt the use of visual images to ensure that they can speak to all of these audiences. In other words, protest writings will often appear not only as words but also combined with images and inscriptions on the protesters’ shirts that convey the atmosphere on the street. The reverse process also happens: the collective voices amplify the individual’s voice. Therefore, we should not regard the protesters as a homogenous bloc but as various voices present at the event. This point is important because sometimes the protest writings are the ones that convey the protesters’ claims that are beyond the claims that are presented or framed by the media. Therefore, the multiplicity of meanings must

be considered to examine the messages the demonstrators convey that are beyond the group's agenda.

Utilizing this broader perspective helps us move away from the image of the homogeneity of the protest [5]. van Stekelenburg, Klandermans [22] indicate that protest writings are rich expressions of the collective identities of the demonstrators as well as the emotions expressed publicly in these movements. Thus, protest actions convey individual or collective feelings implicitly or explicitly. Through them, the participants can express anger, hope or any other emotion associated with the movement's central message [5, 23].

The claims made on the protest signs refer to the complaints and the individual and collective experiences of those who share the sense of injustice that led to the protest. The individual words provide a window into the basis of the social protests [5]. The demonstrations include group posters, individual posters, handwritten or printed signs, and words written on walls. Other forms of protest include songs and [24] videos on social media that allow multimodal storytelling [25, 26]. Posting personal information, photos and images related to the demonstrations created a new cultural language and style [27–30]. Hence, signaling that one is concerned about social issues through such online postings is one of the ways of indicating the power dynamics in the discourse. Understanding the inclusion and exclusion of social actors in constructing the protest signs' messages reveals the power relations, hidden values and ideology of those involved in the protests (Syuhada et al., 2021 cited in [3]).

2.4 Typologies for analyzing slogans

There is extensive research on the effect of language on audiences (e.g., [4, 31]). One of the studies that provide a model for investigating the forms of communication of protest signs is that of Lewis and Reese [32]. This model was originally intended to analyze journalism articles. Their model identifies three factors that can be used to indicate how social groups consciously choose to express their protest and the evolution of the messages it conveys. The three factors are transmission, reification and naturalization.

The transmission stage is the most complex because it determines the narrative on which the discourse will be based. This is the most basic step for the next two components. The reification stage turns the agenda of the protest into an accepted tangible fact in the form of a social demonstration. In the reification phase, the text is written in the language the group has already accepted. The assumption is that the narrative will be translated into reality. This action becomes routine. At this stage, there is no criticism of the constructed narrative. In other words, the terms and phrases already decided upon in building the initial narrative have been accepted. All that remains is to translate them into actions. Naturalization is the act of assimilating information into long-term mental and emotional memory and linking it to additional internalized data. The act of internalization can be conscious or unconscious. According to Lewis and Reese [32] naturalization transforms the selected narrative into a new reality.

The second model is that of van De Velde [5], who identified four typologies for analyzing the forms of communication of protest signs: demands, proclamations, mobilization and bearing witness.

Demand involves political claims or expressions of opposition to policies addressed directly to government institutions. The messages are communicated

visually to convey them to the collective. They are usually in a short, blunt format, whether carried by individuals or groups. The messages are written in a clear (reporting), effective (illustration) and agreed-upon (internalization) manner. Whether they are carried by groups or individuals, in Lewis and Reese's [32] terms, they are marked by the imperatives of clarity [transmission], efficiency [reification] and consensus [naturalization].

Proclamations are elaborate, controversial arguments designed to appeal to the general public. Even if the message of the demonstration is clear, the signs take the form of political slogans illustrating the desired political solution after the narrative against the government has been absorbed. Individuality is reflected in the creativity of the slogan writers and in the personal adaptation of the message to strengthen and diversify it.

Mobilization refers to the goal of recruiting demonstrators to strengthen the impact of the message. The messages are addressed to the internal public of the protest, encouraging them to participate. These messages are shaped by the collective that organized the protest to transmit a message of solidarity. In this way, they are also a means of recruiting audiences from outside to join the protest.

Finally, these messages may evoke empathy, words of support, and personal testimonies gathered together under a hashtag on social media networks. This process allows even those who do not demonstrate personally to bear witness to their agreement with the sentiments of the protests.

According to Van De Velde [5], collecting and analyzing protest signs has methodological and ethical challenges. This task, she notes, requires a great deal of thought on the researcher's part about how data are collected or sampled. One method of doing so is using "netnography," a technique that includes gathering photos of slogans from press sites, private blogs and social media. In addition, Van De Velde [5] states that protest writings are traces of social movements and must be placed in their temporal and geographical contexts. Slogans change from protest to protest. They may also evolve in light of changes in the protesters' demands, the power relations with the government or the police. For example, if the police use force to suppress the protests, the protesters' slogans might change.

Using these models of Lewis and Reese [32] and Van de Velde [5], we can examine the widespread demonstrations that began in Israel in January 2023 against proposals to change certain aspects of the judicial system and the method of electing judges to the Supreme Court.

3. Method

3.1 Testing the typologies using Israel's demonstrations against judicial reform

The protests began in January 7, 2023 with the publication of the Levin reform, which the protestors called a "legal revolution." They regarded it an attempted coup d'état that would harm Israeli democracy and the balance between the three branches of government. They contended that passage of the legislation would weaken the legal system and give unlimited power to the executive and legislative branches. In February 2023, the protest demonstrations spread to approximately 150 centers in Israel. The weekly number of demonstrators throughout Israel reached hundreds of thousands in April. At the same time, weekly demonstrations began throughout Europe and the United States.

3.2 Data collection

McGarrey et al. [2] note that social movement research has overwhelmingly privileged text over images, resulting in researchers failing to consider the visual components of protests. Thus, there is limited research on how protesters use images, how images capture and communicate moments of struggle, and how images produce shared meanings of contentious politics.

With this consideration in mind, every week from January 2023 through May 2023, we tracked and collected the photos published on social networks that were taken by photographers at the demonstrations in order to document the evolution of the social protest and the changing demands of and the power relations with the government. In total, 162 images were collected and analyzed during this time period. Note that the photographers' copyrights were strictly protected.

3.3 Data analysis

After saving the images and creating a database according to the dates and places of the collection, each sign was analyzed according to the characteristics of the medium, writing style (printed or handwritten), images and the context in which they were written and whether the message was from an individual or a group. Following Van De Velde's [5] recommendation, attention was paid to the text's combination of slang, humor, puns, and social and cultural references.

We conducted a multimodal discourse analysis whereby meaning is determined using multiple means and elements of communication, such as text and images that, combined, create new content [26, 33, 34]. We then classified the results into the three stages in Lewis and Reese's [32] model.

4. Findings

4.1 The first stage: Transmission

According to Lewis and Reese's [32] model, transmission is the first stage. It is during this stage that the narrative is created. What is the idea behind the legal reform and the warnings against it? Based on the analysis, the transmission phase covered January 7 to January 27.

The choice of the text for the slogan and the protest signs is important for helping the general public understand the agenda of the protest and mobilizing them to participate in the demonstrations [3].

At this stage, signs such as: **Opposition to a coup d'état** (9.1.23), a kind of wake-up call to mobilize demonstrators to oppose the reform, were seen. A similar sign read, **Stopping the madness, fighting for the country** (photo: AP) (15.1.23).

Additionally, the narrative included threats such as **Politicians without boundaries; it will turn on all of us** (photo: Nitzan Shafir), 12.1.23, **Khomeini also promised democracy**—21.1.23 (EPA) ynet, 21/1/23 **Iran is here** (written in English)—24.1.23 (photo: Reuters). As Castells [21] indicates, demonstrators are very aware of the fact that the media cover their events and spread their messages beyond the crowds of the protesters participating in the event. Therefore, they construct their messages to resonate with the concerns of people in other countries as well.

The slogans also underscored the legitimacy of demonstrating and protesting against the authorities—**When the government is against the people—the people are against the government**—21.1.23 (photo: This is the way/ 'zo Hadereh') **You have to understand, Levin, you will be destroyed, we will overcome**—27.1.23 (photo: Avishalom Sashoni, Flash 90).

Even at this stage, one subgroup emerged from the larger group of demonstrators: those involved in high-tech. As Israel's reputation as a startup nation implies, those who work in high-tech are regarded as the superstars of the Israeli economy. Thus, their slogans underscored their contribution to the Israeli economy and their place within Israeli society: **Even without ChatGPT we know you're wrong**—24.1.23 (photo: Lior Bakalo, Teck12), **No freedom, no hi-tech**—31.1.23 (photo: The Hi-Tech Protest). Another subgroup that emerged also plays a major role in Israeli society—soldiers and those who do reserve military service. Thus, one group of demonstrators called themselves “Achim Laneshek” (Brothers in Arms). They wore khaki shirts, which is the color of the soldiers' uniforms. On their shirts was “**Brothers in Arms.**” They carried signs that said: **Reservists are only in a democracy** (Figure 1).

Furthermore, these slogans describe the identities on which the movements are based, especially the distinctions between “I” and “us” and “them.” They provide a better understanding of political affiliation and the individuals and goals that the movement opposes [16].

In the context of democracy, Della Porta and Diani [8] note that social action is driven largely by the fundamental principles with which actors identify. According to this perspective, “values will influence how actors define specific goals and identify strategies which are both efficient and morally accepted” [18]. Thus, slogans such as **Save Democracy**—14.2.23, **The fish stinks from the head/Israeli democracy is in danger**—11.2.23 (photo: Herzi Shapira). At this stage, all of the demonstrators had identical black shirts with the inscription in blue and white (the colors of the Israeli flag) ‘Loyal to the Declaration of Independence’ (Figure 2).



Figure 1.
Brothers (and sisters) in arms (photo: Idan Golko).



Figure 2.
Save our startup nation (photo: Shaul Golan).

4.2 The second stage: Reification

The second stage of reification began in mid-February and lasted until March 25. During that time, the slogans emphasized the consequences of the passage of the reform. For example, **Don't break the balance and don't lose your brakes**, 11.2.23 (photo: Oren Ben Hakoon). **No compromise with fascism—18.2.23, We will die and we will not agree to a dictatorship. We are determined—23.2.23, We will win** (photo: Sharia Diamant). **Netanyahu endangers Israel's security—resign now!** 27.3.23 (photo: Eric Marmor/Flash90).

In addition, to convey a message directed to the global community [5], the demonstrators unfurled a large sign made of fabric with an image and text that could be seen only from the air by a drone: **Arrest them! No one is above the law**. In the image were Netanyahu, Trump and Putin—26.3.23 (drone photo: Or Hadar).

During this phase, there were also signs with individual sentiments that indicated anger. One said **I DIDN'T MAKE ALIYA [immigrate to Israel] FOR THIS SHIT** (photo: Idan Golko). Here the "I" legitimizes the anger of the "we." The individual's protest was made as a public expression of words that the audience could understand and identify with because they came from the individual's personal experience in the social situation [5].

During this period, another subgroup appeared, a group of lawyers who stood together wearing the suits and robes they would wear in court. Their sign was an appeal claiming that **Politicians without boundaries; it will turn on us!** (photo: Nitzan Shapir). The "I" was also expressed in the second photo, in which the faces of two attorneys were visible, together with their names and the offices for which they worked (photo: Amir Sherf). This combination of the individual and the group supports the contention that the protesters were not homogenous [5].

One other expression of individualism is the presence of handwritten signs. They conveyed personal statements such as a girl holding a sign that said **"gatekeeper"** (photo: Idan Golko), or another with a little girl saying: **I can change too** (photo: Idan Golko).

In this case, the message is that the demonstration comprises many individuals. As a protest that conveys individual or collective feelings, whether implicitly or explicitly, it allows one to express anger, hope or any other emotion associated with the movement's central message [5, 23] and the shared definition produced by several individuals [15].

Another sign, **“We need you,”** written in English, was an appeal for support from Jews and Israelis living abroad. It was also directed toward democratic governing institutions in Europe and the USA, seeking their diplomatic help in pressuring the reformists to drop their campaign (**Figure 3**).

Thus, texts and images such as the phrase **“Democracy is not thrown in the trash”** printed on a sticker with the image of a trashcan are a conscious choice to express the controversy in their agenda and a means of mediating their ideology in the public sphere [3, 4].

4.3 The third stage: Naturalization

The last stage, naturalization, was also the longest, extending from March 25 to May 31. Most of the messages in the naturalization stage reflect that the public has already internalized the message about the legal reform's consequences.

At this point, the signs said: **Democracy has no second chance, and We will not compromise and we will not give up! We will only allow 100% democracy!** 25.3.2023 (photo: Reuben Castro), **So far and no further! Stop the coup d'état** (photo: Idan Golko), **If you don't stand up as a citizen, they will make you the subject** (photo: Idan Golko).

The collective message is evident in using words representing a collective such as “we” and “us.” The concerns are concerns about the collective. Two slogans that



Figure 3.
We need you (photo: Idan Golko).

appeared at this time referenced lines from a well-known Israeli song: **We have no other country and I will not be silent because my country has changed its face** (photos: Idan Golko). Protest signs often draw on various sources, including popular culture or history [7, 35, 36], puns, and social-cultural references in the text [5]. Similarly, the slogans referenced symbols related to the country: **“Loyal to the Declaration of Independence”, “We raise our hands only to raise the flag higher”, “Bad things happen when good people are silent.”** (Photos: private). As one researcher noted, some images “may appear crude to some but many were witty, funny, clever, sarcastic, and some were very touching and straightforward” (Bina Shah, 2019 cited in [37]). Thus, for example, some protesters carried a photo of Prime Minister Netanyahu wearing a king’s robe (photo: Idan Golko), implying that he puts himself above the government in an undemocratic manner.

During this stage, there were also messages to the international community to pressure the Prime Minister to stop the legal reform. Therefore, some of the signs were in English. Indeed, many more than appeared during the initial stage. Examples include Israel [with a picture of its flag] **will remain Free**, 15.4.23 (photo: Amir Goldstein), **History has its eyes on you** (photo: Tal Shahar), **NO TO CIVIL WAR!** (photo: Idan Golko), **You will never be a dictator!** 6.5.23, and **I’m gonna stand in Kaplan like a unicorn**, 13.5.23 (private photo). The last slogan was a reference to the Eurovision Song Contest that took place in May. The song that represented Israel was called “Unicorn.” Kaplan is the name of the main square in Tel Aviv where many of these demonstrations took place.

On May 29, 2023, a picture was taken via drone showing a huge sign made of fabric carried above all of the demonstrators saying, **Never Surrender** (drone photo: Itay Arbel for Maariv Online) (**Figure 4**).

At this point, the subgroup of high-tech workers that emerged in the first stage also created a slogan in English, clearly directed at groups outside Israel: **From startup nation to shutdown nation/Must resist**, 11.5.23 (photo: Or Hadar).

Even at this stage, the individual was visible, as in a handwritten sign that was carried higher than the flags and said, **“I’m scared”** (photo: Idan Golko). Handwritten signs allow multiple meanings and emotions to be expressed [5].



Figure 4.
Never surrender (drone photo: Or Hadar).

Moreover, what most represents the naturalization stage is a sign with a large exclamation point (photo: Idan Golko). At all stages and throughout the demonstrations, there was one consistent sign—“**Shame**”.

5. Discussion

Based on the three stages of Lewis and Reese [32] transmission, reification and naturalization—we can see the evolution of the agenda setting in the protests. What began as a protest against a legal reform morphed into a debate about attempts at regime change and a coup d'état. The differences in the protesters' signs in the three stages mark this transition. For example, in the stage of building the narrative, transmission, the sign 'Save democracy' appeared. In the second stage, reification, the sentiment changed to 'To be free in our country.' In the last stage, naturalization, the sentiment became more combative: We will not compromise, and we will not give up! We will only allow 100% democracy!.

The words on the signs indicate the power of language to express the ideas created in the narrative in the first stage. There is a connection between words and their meaning because language is how we see ourselves and the world [16].

The transition between the stages was also evident in the choice of images on the signs. For example, in the narrative stage, there was a sign with the words, 'To be free in our country,' a reference to a line in Israel's national anthem. However, in the reification stage, there was a picture of a woman holding an image of two of her daughters with their heads in a cage (photo: Idan Golko). The implication was their lack of freedom in the future if the coup d'état took place.

In addition, in the reification stage, some of the signs calling for the preservation of democracy added the image of a fist taken from other demonstrations around the world. Adding elements associated with a certain movement and more universal images used by several movements helps those outside the country understand and identify with the demonstrators' goals [16]. The arm raised with a clenched fist is a familiar symbol from protests worldwide. However, it is an image with a built-in contradiction. On the one hand, it represents “positive” values such as solidarity and shared destiny. On the other hand, it is difficult to ignore its implied threat and its association with the violence that has accompanied groups such as Black Lives Matter that have used it.

The text and images on the protest signs have three main characteristics. First, they focus on values. In all three stages, most protest signs underscored the importance of democracy as a fundamental value in Israel and the negative consequences of its loss as a reason to fight to uphold it.

The second characteristic is the expression of the “us” in both its individual and collective form. Using first-person pronouns allows individual agency in voicing dissent and prompts us to look beyond the unity and solidarity of the protesters and understand that they are not a homogenous bloc. While in most of the research literature [3, 5, 8–10], it seems that there is a place for the individual within the group and the group as a collective, in the case of Israel, the social group that demonstrated against the legal revolution included the characteristics of the social groups affected by the demonstrations against economic globalization in which distinct subgroups were seen within the larger protest group. In Israel, the subgroups included some of the most influential members of Israeli society, those involved in its economy (owners of high-tech companies) and its security (pilots and fighters).



Figure 5.
Bonot alternativa (building an alternative) 'The Handmaid's Tale' representation.

The third characteristic is the appeal to the international community. In all three stages of the protest, there were signs in English designed to prompt the international community to help the protesters and to pressure the Prime Minister and the government not to pass the legal reform. Indeed, their signs had the desired effect. When the Prime Minister and other government officials arrived for meetings with politicians worldwide, they were met by demonstrators who carried signs identical to those in the demonstrations in Israel. In addition, to align the protest with those in other countries, the signs displayed images associated with demonstrations in other countries that would be easily recognized. Examples include signs with the raised hand and clenched fists and women wearing red robes and white bonnets associated with the series 'The Handmaid's Tale' as a symbol of violence against women (photo: Amir Tirkel) (Figure 5).

Contemporary social movements are subject to viral diffusion. As researchers have noted, the phenomenon can be observed in the instant spread of slogans, messages and images urging action [21]. Users of social media sometimes adopt these images as their profile pictures. Today, social media platforms play a significant role in identity construction among members and sympathizers of social movements. Indeed, they have become the sites where new names, symbols or slogans are created and diffused, thus fostering collective identity [38].

Future research may consider the content analysis of protest signs, stickers and signs in the public space, clothing, and other methods that social groups use to disseminate their messages, encourage people to join their protests and make their cause accessible to broader audiences. With the right verbal resources, protest signs can be an effective medium for spreading ideologies and negotiating a balance of power in enacting social changes between the citizens and the government.

Acknowledgements

I would like to express my gratitude and appreciation to Mrs. Diane Romm for her valuable insights as well as for editing the chapter content.

I would also like to express my gratitude to Mrs. Ariane Cukierkorn, Information Specialist, for her helpful and constructive comments and for her help in editing the manuscript.


Thanks to the Research Committee of Zefat Academic College for the grant.

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References

- [1] Condit CM, Lucaites JL. *Crafting Equality: America's Anglo-African Word*. Chicago: University of Chicago Press; 1993
- [2] McGarry A, Jenzen O, Eslen-Ziya H, Erhart I, Korkut U. Beyond the iconic protest images: The performance of 'everyday life' on social media during Gezi Park. *Social Movement Studies*. 2019;**18**(3):284-304. DOI: 10.1080/14742837.2018.1561259
- [3] Bahrudin H, Bakar KA. Us vs. them: Representation of social actors in women's march MY protest signs. *Journal of language and linguistic. Studies*. 2022;**18**(S1):313-329
- [4] McGee MC. The "ideograph": A link between rhetoric and ideology. *Quarterly Journal of Speech*. 2009;**66**(1): 1-16. DOI: 10.1080/00335638009383499
- [5] van de Velde C. The power of slogans: Using protest writings in social movement research. *Social Movement Studies*. 2022:1-20. DOI: 10.1080/14742837.2022.2084065
- [6] Jasper JM, Poulsen JD. Recruiting strangers and friends: Moral shocks and social networks in animal rights and anti-nuclear protests. *Social Problems*. 1995;**42**(4):493-512
- [7] Kasanga LA. Semiotic landscape, code choice and exclusion. In: *Conflict, Exclusion and Dissent in the Linguistic Landscape*. London: Palgrave Macmillan; 2015. pp. 123-144
- [8] Della, Porta D, Diani M. *Social Movements: An Introduction*. 2nd ed. Chichester: Wiley-Blackwell; 2009
- [9] Tilly C. Political identities in changing polities. *Social Research: An International Quarterly*. 2015;**70**(2):605-619
- [10] McAdam D, Tarrow S, Tilly C. *Dynamics of Contention*. Cambridge: Cambridge University Press; 2001
- [11] DeLuca KM, Lawson S, Sun Y. Occupy Wall street on the public screens of social media: The many framings of the birth of a protest movement. *Communication, Culture & Critique*. 2012;**5**(4):483-509
- [12] Berenson A. Journalism and social media frame social movements: The transition to media matrix. In: Višňovský J, Radošinská J, editors. *Social Media and Journalism: Trends, Connections, Implications*. London: IntechOpen; 2018. pp. 67-83
- [13] Fenton N, Barassi V. Alternative media and social networking sites: The politics of individuation and political participation. *The Communication Review*. 2011;**14**(3):179-196. DOI: 10.1080/10714421.2011.597245
- [14] Melucci A. The process of collective identity. In: Johnston H, Klandermans B, editors. *Social Movements and Culture*. Minneapolis: University of Minnesota Press; 1995. pp. 41-63
- [15] Melucci A, Keane J, Mier P. *Nomads of the Present : Social Movements and Individual Needs in Contemporary Society*. Philadelphia: Temple University Press; 1989
- [16] Chodak J. Symbols, slogans and taste in tactics: Creation of collective identity in social movements. In: Volodymyr Y, Wysocki A, Kisla G, Jekaterynczuk A, editors. *Identities of Central-Eastern European Nations*. Kiev: Interservice; 2016. pp. 277-297
- [17] Taylor V, Whittier N. Collective identity in social movement

- communities: Lesbian feminist mobilization. In: Morris AD, Mueller CM, editors. *Frontiers in Social Movement Theory*. New Haven: Yale University Press; 1992. pp. 104-129
- [18] Diani M, Della PD. *Social Movements: An Introduction*. 1st ed. Oxford: Blackwell; 1999
- [19] Sharp HS. *Advertising Slogans of America*. Metuchen, NJ: Scarecrow Press; 1984
- [20] Barton EL. Informational and interactional functions of slogans and sayings in the discourse of a support group. *Discourse & Society*. 1999;**10**(4):461-486
- [21] Castells M. *Networks of Outrage and Hope: Social Movements in the Internet Age*. Cambridge: Polity Press; 2015
- [22] van Stekelenburg J, Klandermans B. *Individuals in Movements: A Social Psychology of Contention*. Handbook of Social Movements across Disciplines. Cham: Springer; 2017. pp. 103-139
- [23] van de Velde Cc. The “indignados”: The reasons for outrage. *Cités*. 2011; **47-48**(3):283. DOI: 10.3917/cite.047.0283
- [24] Riessman CK, Sage P. *Narrative Methods for the Human Sciences*. Thousand Oaks, California: SAGE; 2008
- [25] Davidjants J, Tiidenberg K. Activist memory narration on social media: Armenian genocide on instagram. *New Media & Society*. 2021;1-16. DOI: 10.1177/146144482198963
- [26] Jones RH, Chik A, Hafner CA. *Discourse and Digital Practices: Doing Discourse Analysis in the Digital Age*. New York: Taylor & Francis; 2015
- [27] Calderón CA, López M, Peña J. The conditional indirect effect of performance expectancy in the use of Facebook, Google+, Instagram and twitter by youngsters. *Revista Latina de Comunicación Social*. 2017;**72**:590-607
- [28] Cheng L. Do I mean what I say and say what I mean? A cross cultural approach to the use of emoticons & emojis in CMC messages. *Fonseca*. 2017;**15**:199-217
- [29] Lou J, Jaworski A. Itineraries of protest signage : Semiotic landscape and the mythologizing of the Hong Kong umbrella movement. *Journal of Language and Politics*. 2016;**15**(5):609-642. DOI: 10.1075/jlp.15.5.06lou
- [30] Lundgren H, Poell RF, Kroon B. “This is not a test”: How do human resource development professionals use personality tests as tools of their professional practice? *Human Resource Development Quarterly*. 2019;**30**(2):175-196
- [31] Sonntag SK. *The Local Politics of Global English : Case Studies in Linguistic Globalization*. Lanham, Md: Lexington Lanham, Md; 2004
- [32] Lewis SC, Reese SD. What is the war on terror? Framing through the eyes of journalists. *Journalism and Mass Communication Quarterly*. 2009;**86**(1):85-102. DOI: 10.1177/107769900908600106
- [33] Jones RH. Multimodal discourse analysis. In: Chapelle CA, editor. *The Encyclopedia of Applied Linguistics*. Chichester: John Wiley & Sons, Ltd; 2021. pp. 1-6
- [34] Riessman CK. *Narrative Methods for the Human Sciences*. Thousand Oaks, California: Sage; 2008

[35] Said SB, Kasanga LA. The discourse of protest: Frames of identity, intertextuality and interdiscursivity. In: Blackwood R, Lanza E, Woldemariam H, Milani TM, editors. *Negotiating and Contesting Identities in Linguistic Landscapes*. London: Bloomsbury; 2016. pp. 71-83

[36] Kasanga LA. The linguistic landscape: Mobile signs, code choice, symbolic meaning and territoriality in the discourse of protest. *International Journal of the Sociology of Language*. 2014;**2014**(230):19-44. DOI: 10.1515/ijsl-2014-0025

[37] Akhtar A, Aziz S, Almas N. The poetics of pakistani patriarchy: A critical analysis of the protest-signs in women's march Pakistan 2019. *Journal of Feminist Scholarship*. 2021;**18**(18):136-153

[38] Gerbaudo P, Trere E. In search of the 'we' of social media activism: Introduction to the special issue on social media and protest identities. *Information Communication & Society*. 2015;**18**(8):865-871. DOI: 10.1080/1369118X.2015.1043319

War Crimes Compensation Claims: Charting the Challenges Faced by Civilian Victims and Their Advocates

Alexandra Fowler

Abstract

This chapter will revolve around the difficulties of national human rights institutions, victims' rights groups and other advocates face in launching compensation claims for victims of war crimes. It will discuss the challenges of making a successful mass compensation claim as part of a prosecution in the various international criminal tribunals of recent years as well as in the International Criminal Court. The chapter will then discuss the challenges faced in accessing administrative compensation schemes which in some cases (such as that of the US and the UK) have become measurably more restrictive in recent years. For this the 'War on Terror' (particularly the recent conflicts in Afghanistan and Iraq/Syria) will be a focus. It will conclude by considering ex-gratia compensation schemes which are likewise characterised by a variety of access issues also posing clear difficulties for victims and the advocates who seek redress for them.

Keywords: war crimes, compensation, advocacy, courts, transitional justice

1. Introduction

Acknowledgement and the ready provision of financial (and other) assistance for civilian victims of wartime operations is crucial, from the need for the social and economic rehabilitation of individuals and their communities, and for promoting adherence to the fundamental principles and rules of international law. Compensation is also considered to be of prime importance in promoting counter-insurgency mission goals which depend on winning the 'hearts and minds' of the local population. However, despite significant advances in recent years, compensation for the majority of war victims is either unavailable or is highly variable depending on geographic location, which country the attacking force comes from, the nationality and individual identity of the victim and the process invoked, amongst other factors.

This chapter examines reparations in international criminal courts and tribunals, namely the ICTR, the ICTY, the Special Court for Sierra Leone and the Extraordinary Chamber in the Courts of Cambodia, before discussing outcomes for victims in the International Criminal Court. Given that the US and the UK have deployed their

military forces abroad in recent years and have had a range of high-profile claims brought against them, it then examines the restrictions both those States have placed on victims' justice in their domestic courts. The chapter finishes by examining practice regarding *ex gratia* no-liability payments to victims in theatre.

The discussion concludes that all of these are imperfect mechanisms posing a range of impediments, ranging from jurisdictional limitations, evidential problems, time limits and severe logistic constraints. This means advocates often face severe constraints in representing their clients, which impacts inevitably on accountability and therefore on justice for the crime(s) in question.

2. Reparations in transitional justice

The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) (and their Residual Mechanisms), the Special Court of Sierra Leone (SCSL), as well as the Extraordinary Chamber in the Courts of Cambodia (ECCC), have principally been concerned with trying violators of international law. The influence of common law jurisdictions on the design of tribunal processes meant that victim participation in trials was relegated to the periphery, principally in acting as witnesses for the Prosecution and/or in providing victim impact statements at the sentencing stage. This structure has been to the clear detriment of reparations. Victims have often been left to pursue patchwork administrative regimes which, where available, have often not met international standards of justice.

2.1 The ICTY

The ICTY was established to prosecute the architects of genocide and other atrocities committed during the breakup of the former Republic of Yugoslavia (FRY). It has been recognised as a pioneer for international criminal justice - it pursued convictions of over 160 accused, including Heads of State, Prime Ministers, Army Chiefs, and senior security officials on various sides of the conflict.¹ However, its success was limited with respect to reparations. When the ICTY was established the focus of the international community was overwhelmingly on criminal accountability, and as a result the Tribunal's mandate made no provision for a victims' reparation fund. In fact, the ICTY had no power to award reparations to individuals (except for property restitution). This meant that victims could only utilise Rule 106 of the Tribunal's *Rules of Procedure and Evidence* under which they could bring a case for compensation in a national court upon the basis of the perpetrator's prior conviction in the ICTY. This mechanism featured in ICTY caselaw "only to a very limited extent" [1] - only in a handful of cases, mostly in relation to sexual offences, was it invoked [2]. Rule 106 had very limited potential for this reason [3], and also because it appears that the Office of the Prosecutor was not as proactive as it might have been in raising the possibility of victims using it [4]. This means that victims and their advocates were deprived of this avenue even when the case lent itself to it. Further, the rare individual and collective compensation claims that were successful before national courts have had lingering problems with compliance [5].

¹ See <http://www.icty.org/en/about>.

The UN *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985) urges States to provide compensation to victims where compensation is not fully available from the offender², and that alternate funds be established in cases where the State of nationality of the victim cannot provide compensation.³ Had it been available, victims would in general have had better odds in pursuing compensation through such a scheme, particularly since Security Council Resolution 827 (1993) (which was adopted at the same time as the ICTY Statute) noted that the Tribunal's work was to be without prejudice to the right of victims to seek compensation.⁴ However, any possibility of a broad national compensation programme ended when the Security Council decided to unfreeze the assets of Serbia and the Bosnian Serbs in Resolution 1074 (1996), and the International Court of Justice (ICJ) dismissed the genocide cases launched against Serbia by FRY successor States.⁵ A hard-fought reparations case against the Netherlands brought by the near relatives of victims regarding the actions of 'DutchBat' troops during the Srebrenica massacre ended with only a relatively small victory [7]. Consistent with the constraints placed upon reparations under the ICTY's mandate (only land restitution awards for those forced to flee their property were possible), the only significant reparation that occurred at the national level was the restitution of real estate, particularly in Bosnia-Herzegovina [8]. This means that "many (if not most) victims of international crimes committed during the Yugoslav wars have remained without an effective remedy".⁶

2.2 The ICTR

As was the case with the ICTY, the ICTR Statute made no provision for a reparations fund which could cover Tribunal awards to victims. However, the ICTR mandated that financial compensation be paid to victims in around half of its cases. That said, criminal penalties were enforced against perpetrators but awards for victims were not - overwhelmingly due to the indigence of the former. This was despite the fact that every ICTR judge believed that victims should be compensated, and there was widespread recognition in the international community of the healing role of reparations.⁷ The Tribunal made the occasional ruling that the Rwandan government compensate victims *in lieu* of an indigent perpetrator, but the government refused to do so.⁸

Within Rwanda itself, the vast majority of criminal justice reckonings took place in the traditional Rwandan network of *gacaca* courts, which provided a judicial process

² *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, UNGA Resolution A/RES/40/34 (29 November 1985), Articles 12 and 13. See also the *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UNGA Resolution 60/147 (15 December 2005), <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>.

³ *Declaration of Basic Principles* (n.7), Art.13. See [6].

⁴ Security Council Res. 827, UN SCOR, 48th Sess., 3217th mtg., UN Doc. S/RES/827 (1993), para 7.

⁵ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* [2007] ICJ 2, and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)* [2015] ICJ Reports 3.

⁶ IOM report on reparation requested by the ICTY President [9].

⁷ Carla del Ponte (former ICTR Chief Prosecutor), as quoted in [10].

⁸ In 2014 the Rwandan Minister of Justice ordered the suspension of "all cases in which the Rwandan government is called upon to intervene"; Mugiraneza (n.14).

at the local community level. These resulted in the indictment of over 100,000 people for (low-level) genocide.⁹ In contrast to the ICTR, these processes allowed a central role to victims and their advocates in establishing the charges and bringing evidence against the accused, as well as explaining the impact of his/her acts on victims. Where ICTR trials established the responsibility of the Rwandan State, the *gacaca* courts ordered the perpetrator and/or the State pay colossal sums for the genocide committed in its name. However, these awards suffered from the same difficulties as did ICTR reparations awards - they awarded millions of dollars in reparations to victims, but judgements were seldom enforced, either because the perpetrator was unable to pay or because the State refused to pay *in lieu*. From a policy perspective, although the international community rightly had an interest in seeing the prosecution of key figures who organised and/or committed the genocide, it is therefore arguable that the large sums of money spent on pursuing criminal cases might have been better spent (at least in part) on direct compensation for victims.¹⁰

That said, the Rwandan government did recognise ICTR rulings which placed responsibility on the State for crimes committed in its name. In 1996 the government established the National Commission for Unity and Reconciliation and passed a law on punishing genocide.¹¹ The law promised a compensation fund for victims¹², although senior Rwandan government figures quickly distanced themselves from this promise. Many publicly asserted that Rwanda could not afford a compensation fund, in a similar way as they refused the ICTR's prompts for the government to step in *in lieu* of the perpetrator to pay court-mandated reparations.¹³ Instead, in 1998 the government set up a national rehabilitation fund ('FARG'¹⁴) to provide health services for victims, support for the most destitute, education for orphan victims, housing for the homeless, and assistance in creating income-generating activities. FARG was to be financed not by damages, but by a regular provision from the national budget [12].

Since then FARG has been well-resourced (at around 6% of Rwanda's annual budget¹⁵), but it quickly gained a reputation for corruption and for discrimination against Hutus.¹⁶ Problems including embezzlement, shoddy housing construction, corruption in the selection of beneficiaries, and allowing former militiamen to benefit, have persisted.¹⁷ However, in 2018 it was reported that it had financed medical care on over 2 million occasions (including for 428 patients treated abroad), nearly 110,000 children and orphans had benefited from the education programme at all levels and up to university, 45,000 houses had been built, and there had been 54,000 beneficiaries of income-generating activities. With the assistance of international donors, FARG has also built memorials and mass tombs and has instituted other remembrance

⁹ Mugiraneza (n.14).

¹⁰ Waldorf (n.18), 518–519.

¹¹ *Organic Law No. 08/1996 on the Organisation of Prosecutions for Offences constituting the Crime of Genocide or Crimes Against Humanity committed since 1 October 1990*.

¹² Waldorf [11]; UN General Assembly Resolution 40/34 (29 November 1985).

¹³ The Rwandan government granted itself immunity from civil liability and the Supreme Court of Rwanda has upheld this immunity in the face of civil suits; see for example *Theophile Twagiramungu*, Judgement No. RPAA0004/Gen/05/CS (12 February 2008), 11. See also Waldorf (n.18), 520, and n.15.

¹⁴ Fonds d'Assistance aux Rescapes du Genocide (FARG).

¹⁵ Before a 2008 amendment of *Organic Law No. 08/1996*, every employee in the public or private sector had to make a contribution to the FARG equivalent to 1% of their gross salary; Id.

¹⁶ Its senior officials are close to the Tutsi-dominated RPF government; Waldorf (n.18), 522.

¹⁷ Sehene Ruvugiro (n.21).

activities.¹⁸ Although the total spent is approximately 272 billion Rwandan francs (270 million Euros), many argue that this is “a drop in an ocean of problems” and remains derisory in relation to the needs and the number of victims.¹⁹

International law (including the UN *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985)) argues that reparations for such heinous acts as genocide is a right, not a privilege. However, the Rwandan government’s rejection of compensation in favour of providing assistance through FARG means that “even the victims are condemned to pay for their own reparation”, and survivors (and/or the genocide survivors network Ibuka (“remember” in Rwandan)) need to agitate for funds lest they lose out.²⁰ Some have argued that because Rwanda was in ruins in the aftermath of the genocide the focus of the country had to be on rebuilding basic infrastructure, communities and services rather than on providing financial redress for individuals.²¹ Even if so, more than 25 years have now passed, and there has still been a lack of success by victims and their advocates, both Rwandan and international, in agitating for individualised compensation.

2.3 The SCSL

The civil war in Sierra Leone was perpetrated principally by Revolutionary United Front (RUF) rebels fighting against the Momoh and then Kabbah governments. Throughout the war, RUF troops and their sympathisers conducted a reign of terror against civilians, which was characterised by the widespread use of child soldiers, slaughter, mutilation, rape, and the complete destruction of villages. The end of the war resulted in the *Lome Peace Agreement* (1997) under which there was the deployment of peacekeepers from the United Nations Mission to Sierra Leone (UNAMSIL).²² The *Lome Agreement* also included a requirement that the Sierra Leonean government set up a Truth and Reconciliation Commission (TRC) and a reparations fund for war victims.

The government acted quickly to establish the TRC, but there was little action taken for several years regarding reparations. The TRC presented a lengthy report in 2004 which contained a whole chapter on reparations for victims of both State and rebel actors.²³ Five categories of beneficiaries were identified - amputees, other wounded, victims of sexual violence, children and war widows²⁴, each of whom were to be entitled to free healthcare and (in the case of adults) a monthly pension of at least SLL60,000 (about USD30).²⁵ Funds for the pension were to come from the Sierra Leonean government, although it hoped that the international community (particularly the UN Secretary-General’s Peacebuilding Fund²⁶) would contribute. However, there was a drastic shortfall in international donor funds (in 2004, which was the year in which the scheme had the highest profile in the international community, only 10% of the funding goal was reached).²⁷

¹⁸ Waldorf (n.19), 523–524.

¹⁹ FARG Executive Director Theophile Ruberangeyo, as quoted in Sehene Ruvugiro (n.22).

²⁰ Sehene Ruvugiro (n.22).

²¹ Mugiraneza (n.14).

²² See S/RES/1289 (7 February 2000) and subsequent resolutions renewing UNAMSIL’s mandate.

²³ Report of the TRC, Volume 2, Chapter 4 (“Reparations”), paras 16–21.

²⁴ *Id.*, paras 87–99.

²⁵ *Id.*, paras 103–172.

²⁶ See <https://www.un.org/peacebuilding/content/fund>.

²⁷ “Sierra Leone: Truth and Reconciliation Report”, *Africa News*, 31 October 2004.

In 2008 the new government designated the National Commission for Social Action (NaCSA) as the implementing agency; although it was allocated no funding, NaCSA pledged to honour all of the TRC's recommendations on reparations. The Sierra Leone Reparation Fund, raised from the international community and managed by the Peacebuilding Fund (with technical assistance from the International Organisation for Migration)²⁸, ended up with USD4.55 million for postwar reparations. Although there were initial difficulties in establishing processes for accessing funds²⁹, in 2009 NaCSA provided SLL300,000 (approximately USD100) to each of 20,000 wounded victims and 200 victims of sexual violence. Another 50 victims with significant physical injuries received medical treatment. A further round of payments were made in 2012 to around 10,700 victims totaling over USD860,000 (an average of USD80 per person), and in 2013 NaCSA began distribution of rehabilitation grants to around 1300 disabled victims [13]. It also funded community-based capacity-building projects (agricultural assistance, housing and skills training) and symbolic acts of memorialisation in some districts [14], with up to 100,000 Sierra Leonean victims and their close relatives reportedly benefiting.³⁰ Thus although reparations were forthcoming, lengthy delays, limited funds and significant omissions from the victim group have reduced their effectiveness.

On the criminal track, the Special Court for Sierra Leone (SCSL) was set up in 2002 following the request by the Sierra Leone government to the UN for "a special court" to try atrocities committed during the conflict.³¹ Similarly to the ICTY and ICTR, the Statute of the SCSL did not specifically provide for victim reparations, but the government had hoped that funds would be recovered for victim compensation once successful convictions had been obtained. However, in 2010 SCSL Chief Prosecutor Brenda Hollis cautioned against optimism that the end of the high-profile trial of Charles Taylor (former President of Liberia) would allow the repair of victims. Hollis noted that public hopes for a compensation mechanism paid from Taylor's assets would not be satisfied because the UN team investigating Taylor's alleged funds was experiencing great difficulty identifying and seizing suitable assets, and also there was a serious shortfall in contributions for victims' awards from the international community (this was, in her words, "little short of a disgrace").³² Taylor was eventually convicted and sentenced to 50 years in prison, but very little was recovered of his assets. Funds were also elusive from other SCSL cases.³³

2.4 The ECCC

Many years after the Khmer Rouge 'killing fields' of the 1970s, the hybrid UN/Cambodian Extraordinary Chambers in the Courts of Cambodia (ECCC) was finally established to prosecute former Khmer Rouge 'senior leaders' and 'those who were most responsible' for the genocide. The ECCC has to date convicted three senior leaders: Kaing Guek Eav ('Duch'), the former Head of the S-21 security facility in Phnom Penh ('Case 001'), and Nuon Chea ('Brother Number Two') and Khieu Samphan

²⁸ International Organisation for Migration Press Release, "Sierra Leone Victims Receive Compensation", 25 June 2012.

²⁹ "Sierra Leone: Reparation Process Suffers Setback," *All Africa News*, 31 October 2008.

³⁰ "Sierra Leone; Special Court Receives Funding Reprieve," *Africa News* (14 April 2009).

³¹ See <https://rscsl.org/annual-report/eleventh-annual-report/>.

³² SCSL Chief Prosecutor Hollis (n.39).

³³ See IOM (n.38).

(President of the State Praesidium) ('Case 002').³⁴ Other cases – that against Meas Muth (and Sou Met before his death) ('Case 003')³⁵ and against Yim Tith ('Case 004')³⁶, with sub-cases against Im Chaem ('Case 004/01')³⁷ and Ao An ('Case 004/02')³⁸ did not proceed due to disagreements between the international and the Cambodian judges and prosecutors; in fact, the Cambodian government has resisted all efforts to reach within former Khmer Rouge ranks to bring further prosecutions [17, 18].

The ECCC was the first internationalised tribunal to give a substantive role to victims ('Civil Parties') in determining charges and participating in the trial. Its Victim Support Section played a key median role liaising between Civil Party advocates and focal persons amongst the Civil Party victim group. The UN Group of Experts for Cambodia³⁹ had earlier recommended that the ECCC be given power to order financial reparations be paid to Civil Parties from the leaders convicted at trial. However, the Cambodian government rejected this idea [19]. While the *Internal Rules of the ECCC* allowed the confiscation of illegally-obtained real property and other assets from convicted persons, all proceeds went to government coffers and was not for the benefit of victims.⁴⁰ Yet Cambodia's human rights treaty obligations guarantee victims an 'effective remedy'⁴¹, so the requirement for civil reparations had to be met. Only Cases 001 and 002 resulted in a reparations order; after a difficult first experience with the trial process in Case 001, ECCC judges significantly amended their legal framework to provide alternative avenues for reparations in the judicial process [20]. This was done by allowing the Chamber's *Internal Rules* to provide that reparations be granted in symbolic terms.⁴² Upon finding that each of the relevant offenders were apparently indigent, the Chamber ruled that education, documentation, memorialisation and some health rehabilitation projects were to be judicially recognised as

³⁴ The case against Nuon Chea and Khieu Samphan (plus Ieng Sary and Ieng Thirith, who both died before the trial was completed) ('Case 002') was split into 'Case 002/01' (relating mainly to certain crimes against humanity) and 'Case 002/02' (regarding war crimes, crimes against humanity and genocide throughout Cambodia) [15]).

³⁵ In Case 003, the Supreme Court Chamber decided that the case be terminated in the absence of a definitive and enforceable indictment; https://eccc.gov.kh/sites/default/files/documents/courtdoc/%5Bdate-in-tz%5D/D275_EN.pdf.

³⁶ In Case 004, the Supreme Court Chamber dismissed the International Co-Prosecutor's appeal requesting the case be sent for trial in the ECCC Trial Chamber; <https://www.eccc.gov.kh/en/case/topic/120>. Over 2000 victims had registered as Civil Parties.

³⁷ Case 004/01 was dropped because the Supreme Court Chamber ruled (3:2) that the accused was not one of the regime's most "senior" or "most responsible" leaders, <https://www.eccc.gov.kh/en/case/topic/1661>. See also [16].

³⁸ Case 004/02 was terminated because the Supreme Court Chamber was unable to reach the required majority regarding the merits of a trial process; <https://www.eccc.gov.kh/en/case/topic/1691>.

³⁹ *Report of the Group of Experts for Cambodia* established by former Secretary General Kofi Annan pursuant to General Assembly Resolution A/RES/52/135 (1998).

⁴⁰ *Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea* (2004) [Council of Jurists translation], Article 39.

⁴¹ The International Covenant of Civil and Political Rights, Article 2(3). Cambodia ratified the Covenant on 26 May 1992, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=29&Lang=en.

⁴² Extraordinary Chambers in the Courts of Cambodia, *Internal Rules* (Rev. 4), Rule 23 (revised on 11 September 2009).

civil reparations.⁴³ In Case 001 the ECCC admitted 64 applicants as Civil Parties and declared that memorialisation of the dead in case documentation along with the publication of Duch's acknowledgements of wrongdoing and apologies would comprise reparations. There was a similar ruling in Case 002, in which some 3865 victims had registered as Civil Parties.⁴⁴

The ECCC has announced that there will not be any more investigations and trials, so there will not be any further opportunities for court-mandated symbolism.⁴⁵ Unless the Cambodian government seizes the large caches of assets allegedly amassed by former Khmer Rouge senior leaders⁴⁶, or makes available a separate reparations fund (from its own national budget, international donor funds or a mix of the two), there will never be enough funds to repair individual Cambodian victims even partially for their losses, particularly given the lengthy period of time that has now elapsed.

2.5 Commentary

The model adopted by the ICTR was very unsatisfactory for victims, as was court procedure under the ICTY and SCSL Statutes. All these bodies were based on the Western adversarial system which minimises victim participation and places responsibility on the prosecutor to represent them during trial. Allowing the impact on victims to be considered only at sentencing (where available) does little to dignify and empower victims, and they are often disappointed and disillusioned from the experience [21]. The risk of this is even greater in cases of mass atrocity and if trials are held in geographically-remote locations, such as the SCSL's prosecution of Charles Taylor in The Hague. Although the ECCC was the first international (hybrid) tribunal to give a substantive role to victims as Civil Parties, its rulings on reparations were only symbolic, which is an unsatisfactory outcome for the many victims left in destitute circumstances. Furthermore, given the Cambodian government's staunch opposition to any further investigations, it appears that only three substantive trials will ever be held.

Clearly, "[f]unding reparation for mass-victimisation from the resources collected from individual convicted perpetrators will be necessarily a challenge".⁴⁷ Even when convictions of very senior (and allegedly very rich) perpetrators have been obtained in courts or tribunals having the power to seize assets and make reparation awards, it has proven extremely difficult to recover even meagre resources for this purpose. Further, placing the burden of reparations on a convicted few does not reflect the fact that gross, widespread atrocities often occur against a broader background of systematic planning and organisation.

Regarding government-funded reparations, when such schemes have been enacted in domestic legal systems victims have had a legislative framework for redress based in domestic law. This means that they are able to avoid the significant difficulties

⁴³ See *Case against Nuon Chea and Khieu Samphan in the Extraordinary Chambers in the Courts of Cambodia*, Case File No. 002/19-09-2007/ECCC/TC (Case 002/02) (16 November 2018), Summary of the Judgement, paras 63–67 (27–28).

⁴⁴ *Ibid.*

⁴⁵ Statement by the International Co-Prosecutor [Nicholas Koumjian] Regarding ECCC Caseload" (26 November 2014), <https://www.eccc.gov.kh/en/articles/statement-international-co-prosecutor-regarding-eccc-caseload>. See also Boyle (n.47); Phan (n.51), 278.

⁴⁶ *Report of the Group of Experts for Cambodia* (n.50), para 211.

⁴⁷ *Id.*, 1.1.

of arguing their claim based directly on rights in international law, which has been a stumbling block for many claimants in recent years [22]. Having said that, all the schemes discussed so far have been deficient in major respects, with wide variations in coverage and effectiveness. Many victims have fallen through their cracks, including by deliberate design [23]. This is the case also in Argentina [24], Chile [25, 26], Guatemala⁴⁸, Peru⁴⁹, South Africa⁵⁰ and Sri Lanka [27, 28], which have all implemented their own compensation regimes following lengthy repression and/or internal conflict.

It is however true that the lack of financial reparation for many victims in post-conflict societies reflects the difficulty plaguing any reparations process coping with mass atrocities, particularly if there are lengthy delays. The very nature of war crimes involving mass numbers of victims shatter entire communities, making them impossible to fully repair. As such, all reparations will be symbolic to some degree. The sum placed on the loss of a family member or on significant and lasting disability will always be arbitrary and inadequate, demonstrating that reparations are in many respects a blunt tool, ill-adapted to dealing with many abuses. Viewed in such a way, reparations for individuals may lose any real meaning and can even be insulting. This will especially be the case if official apologies and government acknowledgement of the wrongs committed, communal reparation and memorialisation activities, truth and reconciliation commissions, and health and education programmes are all absent.

A good example of this occurs in relation to sexual and gender-based violence committed during conflict (SGBV). Governments are increasingly recognising the need to repair SGBV, but much of the discourse in relation to transitional justice fails to address these victims' needs, especially where there has been mass abuse. As is the case for other gross abuse, compensation will always be grossly disproportionate to the harm suffered, thereby risking the trivialisation of victims' suffering. Further, a continued focus on the 'victimhood' of SGBV survivors contributes to a narrative of ongoing powerlessness and stigmatisation in a way that continued focus on the victims of (say) a mass killing does not. The need to highlight the suffering of victims of sexual violence in order to pursue their case for reparations can present a quandary for them and their advocates as the risk of re-victimisation is high, especially in conservative societies [29].

Further, an 'individualisation' of the right to reparations or a focus on victimhood in the context of mass abuse ignores the broader societal inequalities that may have contributed to that abuse, thus missing an important development opportunity and leaving the roots of violence intact.⁵¹ This dilemma amply illustrates the challenge faced by transitional justice in being both backward and forward-looking, needing to address legitimate claims for justice by survivors of horrendous abuse while building long-term peace, equity and respect [30].

Political decisions regarding whether and to what amount to fund compensation (especially where the number of victims is very large) will always be difficult, and despite their recognition of the legal rights of diverse victims, most States have done poorly in this respect. Political disagreement is common on whether it is more important to repair victims of the violence or to rebuild economically. Against a background

⁴⁸ See for example <https://www.ictj.org/our-work/regions-and-countries/guatemala>.

⁴⁹ Faverio and Naimark (n.63).

⁵⁰ C. Colvin, "Overview of the Reparations Program in South Africa", in de Grief (n.65).

⁵¹ A. Saris and K. Lofts, "Reparation Programmes: A Gendered Perspective", in Ferstman *et al* (eds.) (n.54), 79–99.

of scarce resources and unstable post-war political leadership it is very likely that the former will be sacrificed in favour of the latter, either until the economy recovers (the timescale for this being unstated) or completely. Sometimes a reparations scheme provides for both collective and individual claims, but in general governments tend to resource the former far better than the latter (no doubt due to their wider impact for the money spent, and perhaps also due to the potential for electoral votes in recipient communities). Collective reparations have also been criticised for being deficient economically, conducted without recipient community consultation, or for veering into the area of community development which the government should deliver anyway [31].

In post-conflict societies individual reparations should be an integral part of a broader package aiming to reform institutions and government practice, strengthen the human rights architecture, and address the deep structural issues in society (such as social and political marginalisation, economic inequalities between ethnic groups and/or poverty in rural or indigenous areas) that gave rise to the conflict. However, governments tend to pursue memorialisation and collective reparations (in far less than perfect form) while ignoring broader and more difficult structural reform. This is particularly where the government is a provisional one seeking electoral and political legitimacy. The result is that the society as a whole fails to reckon with the past and little structural change occurs [32, 33], so the roots of the conflict are not addressed in a way which could break the cycle of violence. At a deeper level this falls foul of the guarantee of non-repetition owed to the international community under Article 23 of the *Basic Principles and Guidelines*. Thus one of the most important goals of a post-conflict reparations scheme is often unmet.

International pressure is crucial in encouraging societies reckoning with transitional justice to provide an effective remedy for victims. Yet the international community too often focuses on prosecution of those responsible for atrocities and not sufficiently on repairing its victims. This focus has meant reparations at the national level have generally played second fiddle to criminal justice outcomes. For example, the international community was overwhelmingly concerned with prosecuting war crimes in Rwanda and in the former Yugoslavia, so there was little attention paid to civil reparations in their post-war recovery. Similarly, the focus on criminal processes for former Khmer Rouge leaders has been to beggar a civil scheme for Cambodian victims [34]. The lack of success by the UN in raising international donor funds to service comprehensive reparations schemes in these countries is telling. Even when the UN has been able to raise international funding (such as for Sierra Leone), it has been far less than required.⁵² Lastly, of course there is the danger also that relying on donor funding from the international community removes much of the impetus for the post-war society to reckon with the long-term political, economic and social marginalisation of segments of its community which led to violence in the first place.

Reparations receive far less attention from both the national government and the international community than criminal responsibility for key leaders and a return to stability and international participation by the State. International pressure for accountability to victims tends to decline upon evidence of cooperation by the State's government on regional security, trade issues, and/or (especially in recent years) international terrorism. Of course, pursuing criminal accountability of those responsible is a crucial element of achieving justice for victims, but most criminal trials - even if they result in convictions - "...do not lead to things such as reparations, institutional

⁵² See Part 1.3 above.

reforms, vetting of officials, school lessons, history books, and rehabilitation of the victims” [35]. These outcomes must be provided by national governments, and without the political will (or external pressure) for them there is little chance they will occur. In Rwanda there was active opposition to the idea of reparations. The former Khmer Rouge leaders still in power in Cambodia have not only refused the idea of reparations upon conviction and have distanced themselves from the ECCC process, they have also shown little inclination to institute reparations outside of that process.⁵³ Sierra Leone’s government acknowledged the need for reparations but refused to fund them, completely outsourcing their funding to the international community. Whilst there was no opposition *per se* to reparations in the former Yugoslavia, the lack of action has again been due to a lack of strong political leadership.⁵⁴

Unless there is strong political leadership from post-war governments (which is rare), efforts by international organisations, civil society actors, victims’ associations, and political actors to ensure all victims receive just compensation are unlikely to bear fruit. States will breach international standards and obligations if they do not provide victims with an effective remedy for egregious violations of international humanitarian or human rights law⁵⁵, but individual victims or groups of victims may need to enliven international fora (such as regional human rights bodies, if available) to actualise this right.

3. Reparations in the International Criminal Court

The International Criminal Court (ICC) established under the *Rome Statute*⁵⁶ was the first permanent international tribunal to give specific rights to victims, including to civil redress. Its Article 75 provides that the Court will establish principles relating to reparations for victims - including restitution, compensation and rehabilitation - and it may make an order against a convicted person specifying the reparations to be paid. In appropriate circumstances the Court may order that reparations be made through the Trust Fund for Victims (TFV) established under Article 79, which is where all money and proceeds collected through fines and/or forfeiture are paid.

The TFV’s reparations mandate has played an increasingly important role as convictions have been secured. To date, five reparations awards have been made upon the convictions of *Thomas Lubanga Dyilo* in 2012 (symbolic and non-symbolic collective reparations were awarded⁵⁷, and the Court set Lubanga’s liability for the latter at USD10 million); *Germain Katanga* in 2014 (the Court determined Katanga’s liability at USD1 million, which covered nearly 300 victims who would receive symbolic reparations of USD250 per individual (USD74,250 in total), as well as four awards of collective reparations (USD925,750 in total) for housing support, income generating activities, education aid and psychological rehabilitation⁵⁸); *Ahmad al-Faqi al-Mahdi* in 2016 (the Court determined his reparations liability at €2.7 million, which covered individual awards and collective reparations); *Bosco Ntaganda* in 2019 (the Court

⁵³ Phan (n.51), 286.

⁵⁴ IOM report (n.13).

⁵⁵ *Basic Principles and Guidelines* (n.7).

⁵⁶ A/CONF.183/9 of 17 July 1998. The Statute entered into force on 1 July 2002.

⁵⁷ ICC Press Release: “Lubanga case: ICC Judges Approve Plan on Symbolic Reparations” (21 October 2016).

⁵⁸ ICC Press Release: “Katanga case: ICC Trial Chamber II Awards Victims Individual and Collective Reparations” (24 March 2017).

determined his reparations liability at over USD31 million⁵⁹, the Court's highest-ever award), and *Dominic Ongwen* in 2021 (reparations phase is ongoing).⁶⁰

The TFV's secondary function - its 'assistance mandate' - allows it to use voluntary contributions from States for the benefit of victims in areas under the Court's investigation, independently of the reparation process.⁶¹ This role has the benefit of offering more timely assistance to victims than under the reparations mandate, allows funds for a broader group of persons than those affected by a single crime, and is not dependant on a prior guilty verdict. The TFV's assistance projects to date have focused on the Democratic Republic of the Congo, Northern Uganda, Cote d'Ivoire, and the Central African Republic. A broad range of victims have benefited, including SGBV survivors, child mothers, former child soldiers, disabled persons and amputees, disfigured and tortured persons, and orphans. For example, victims of sexual violence in *Lubanga* (who missed out on a reparations award at trial)⁶², and victims of *Jean-Pierre Bemba* (who missed out on reparations as a result of his acquittal on appeal in 2018) have been able to benefit from the TFV's assistance mandate.⁶³

As was the case for earlier international tribunals, ICC awards against convicted persons who are found to be indigent by necessity will require the TFV to provide the funds. In all ICC cases in which reparations awards have been made the perpetrator has been ruled indigent, so the Court has requested the TFV step in to cover the whole (or near whole) amount.⁶⁴ Although the ICC has reiterated that a convicted person must reimburse the Fund for the sums it advances on his/her behalf⁶⁵, there is little real prospect of this occurring. The *Rome Statute* contains provisions for Member States to assist the Court with identifying and securing assets for victim reparations, but this has proven to be a difficult and protracted process, even when the convicted person has amassed a personal fortune. The Fund's reliance upon voluntary donations has clear implications for the extent to which it can cover awards; some members of the international community routinely make voluntary contributions to the TFV's assistance mandate, while others donate specifically to meet the reparations award in a particular case. In both these respects the current heavy call on the Fund is very

⁵⁹ See <https://www.icc-cpi.int/court-record/icc-01/04-02/06-2782>.

⁶⁰ Other completed cases did not end in reparations awards because the accused was acquitted (*Mathieu Ngudjolo Chui*, and *Blé Goudé and Gbagbo*), acquitted upon appeal (*Jean-Pierre Bemba Gombo* - more than 5200 victims had registered with the Court in that case), or died before the Court's verdict was delivered (*Paul Gicheru*). Trials for a further six accused (*Alfred Yekatom* and *Patrice-Edouard Ngaïssona*, *Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, *Ali Muhammad Ali Abd-Al-Rahman*, *Maxime Jeoffroy Eli Mokom Gawaka* and *Mahamat Said Abdel Kani*) are at various stages of completion. See <https://www.icc-cpi.int/cases>.

⁶¹ See <http://www.trustfundforvictims.org>.

⁶² ICC Press Release: "Lubanga Case: Trial Chamber II Issues Additional Decision on Reparations" (15 December 2017) [36].

⁶³ ICC Press Release: "Trust Fund for Victims decides to provide \$1 million for the reparations awarded to victims in the *Katanga* case, welcomes earmarked donations of €200,000 from the Netherlands" (18 May 2017); Trust Fund for Victims Press Release (13 June 2018); "ICC Sets Up €1 million Fund for Bemba Victims", *Business Day* (14 June 2018).

⁶⁴ See <https://www.trustfundforvictims.org/en/what-we-do/reparation-orders>; ICC Press Release: "Lubanga Case" (note 77); ICC Press Release: "Trust Fund for Victims Submits Draft Implementation Plan for Reparations in the *Katanga* Case" (26 July 2017); ICC Press Release: "Katanga case: Reparations Order Largely Confirmed" (8 March 2018).

⁶⁵ Pena (n.87).

likely to continue, making many reparations awards necessarily symbolic (particularly in cases of mass atrocity) or skewed in favour of collective rather than individual sums. Clearly, it is inevitable that the Fund's dependence on the philanthropic whims of the international community impacts on the effectiveness of its work.

Exacerbating these limitations is the fact that ICC proceedings can only be brought against individuals; the *Rome Statute* contains no mechanism to hold *States themselves* accountable for war crimes, crimes against humanity or genocide. The ICC's conviction of a person for war crimes does not imply any form of joint responsibility (legal or financial) for the State on whose behalf the person acted.

Of course, the availability of a reparations award for victims depends on whether the ICC is entitled to act in the first place. The ICC can exercise jurisdiction only when the crime was committed by a citizen of a Member State or on the territory of a Member State, or if the UN Security Council refers the situation to the Court.⁶⁶ Some obvious candidates for examination have never become members of the *Rome Statute* (such as Sri Lanka, North Korea, Burma⁶⁷, Uzbekistan, Israel⁶⁸, Syria, Iraq, China, the Russian Federation and the US), and the Security Council's permanent members have actively shielded their allies from the Court's attention.⁶⁹ This means that so many victims around the world have been denied justice, which actively detracts from the reputation the Court might otherwise hold as a beacon against impunity and a bastion of impartiality in the throes of international war and politics.

Another major problem with ICC trials is the fact that in many cases, it takes years to apprehend the accused and commence trial. If there is an appeal, it will take even longer to obtain a final verdict and a reparations order after that, which may itself be appealed and in any case suffer serious difficulties with funding. Many victims of mass atrocity will therefore need to get by for a very long time before they see any reparations, if there are any at all. Needless to say, this massive delay leads to great injustice, especially since many victims already live in very impoverished circumstances. Additionally, the ICC will not proceed against an accused unless they are in ICC custody; there is no provision in the Court's rules for trials *in absentia*. Many accuseds (such as, for example, Joseph Kony) are still at large years after the warrant for their arrest has been issued. The custody requirement is consistent with criminal law protections for the accused which are well-established in many legal traditions, but it means victims - no matter how deserving - cannot access the TFV's reparations mandate. Victims may be able to benefit from the Fund's assistance mandate, such as occurred when *Bemba* was acquitted, but this is often subject to severe resource constraints and moreover, it is not tied to criminal guilt.

Assuming a trial does go ahead, there are noted difficulties with representing the client group - problems with communication infrastructure and logistics to remote communities and language barriers in accepting instructions and keeping the group informed of developments. Depending on their circumstances, some in the client group may have different hopes and expectations about redress than other victims,

⁶⁶ *Rome Statute* Articles 12, 13.

⁶⁷ In November 2019 ICC Judges granted the Prosecutor's request to start an investigation into the situation in Bangladesh/Myanmar with respect to the Rohingya – over 500,000 victims supported the request; <https://www.icc-cpi.int/victims/bangladesh-myanmar>.

⁶⁸ Note that Palestine acceded to the ICC in January 2015. After the conduct of a preliminary examination, in March 2021 the Prosecutor announced the opening of a full investigation into the Situation in the State of Palestine (includes Gaza and the West Bank, including East Jerusalem; <https://www.icc-cpi.int/palestine>).

⁶⁹ Additionally, the UN General Assembly lacks the power to grant jurisdiction to the ICC [37].

for example by placing more importance on criminal guilt than on individual awards or on rebuilding community infrastructure. External teams for the Defence and for Victims in ICC trials have been criticised for their lack of diversity due to the fact that the ICC's legal aid budget has no provision for team members' relocation and travel costs (including home visits from The Hague back to the relevant country) and standard work benefits, and there is a lack of certainty in their visa conditions in the Netherlands.⁷⁰ This inequality in resources (up to 30–40% less) compared to that of officials from the Office of the Prosecutor raises deep concerns about the equality of arms between counsel, and thus the conduct of justice itself.⁷¹

If the national government is amenable and has the resources (its own or donor funds) to pursue credible trials, a process within the country can bring about more lasting reconciliation between communities and truth-telling, and thus better tackle the underlying social and political roots of the violence (which is one of the goals of reparation). Pursuing justice in a remote forum (The Hague) is not an ideal form of justice: the *gacaca* courts in Rwanda were criticised for their lesser protections for the accused and for passing lower sentences, but it brought justice down to the community level and allowed broad participation in accordance with cultural expectations. In this way, while an ICC conviction is a powerful statement against impunity, this extraordinarily expensive, lengthy and remote mechanism has serious flaws which may result in less benefit to victims than alternative models closer to home.⁷²

4. Reparation awards in foreign courts and under foreign government administrative schemes

Member States participating in UN peacekeeping enjoy full immunity from local claims of all types as a result of the UN's broad immunity.⁷³ There have been a handful of cases in foreign courts alleging breaches of the laws of war during a State's participation in UN peacekeeping or NATO operations, but these have turned on specific fact situations and victims have encountered considerable obstacles. One such case involved the efforts by the Mothers of Srebrenica in bringing an action against the Dutch government for the liability of Dutch forces (DutchBat) in failing to protect around 300 Bosnian Muslim men and boys from being killed by Serb forces during the breakup of the former Yugoslavia. The Dutch Supreme Court finally held that liability could be established to the extent that DutchBat acted under the command of the Netherlands, but damages should be limited to the victims' chance of survival in the circumstances, which it assessed at only 10%.⁷⁴ Another example was the *Bridge of Varvarin case*

⁷⁰ [ICC Bar Association President Statement to the ICC Assembly of States Parties (6 December 2022), <https://www.iccba-abcpi.org/post/iccba-president-addresses-the-assembly-of-states-parties>.

⁷¹ Ibid.

⁷² Note that the principle of complementarity in the ICC places States at the forefront of international criminal justice - the ICC will only step in if the State shows itself to be unable or unwilling to prosecute (*Rome Statute*, Articles 17 and 53); <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/20BB4494-70F9-4698-8E30-907F631453ED/281984/complementarity.pdf>.

⁷³ *Convention on the Privileges and Immunities of the United Nations*, General Assembly Resolution 22(1), 13 February 1946, Art.2(2).

⁷⁴ *The State of the Netherlands v Respondents and Stichting Mothers of Srebrenica*, Supreme Court of the Netherlands No. 17/04567 (19 July 2019), <https://uitspraken.rechtspraak.nl/#!details?id=ECLI:NL:HR:2019:1284>.

(2003), in which 35 civilian relatives and victims of a 1999 NATO airstrike on a bridge in the rural Serb enclave of Montenegro failed to convince the German Federal Court of Justice that Germany had breached its international and/or domestic obligations when it allegedly knew of and approved the targeting of the bridge.⁷⁵

4.1 Actions in United States Courts

The so-called *Alien Tort Statute* (ATS), adopted in the US *Judiciary Act of 1789*, provides that “[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States”. By its text it seemingly asserts that any violation of the law of nations, wherever it occurs, may be pursued in US courts, thus opening an apparently valuable pathway for victims or their advocates to pursue redress. The first landmark case to this effect was *Filártiga v Peña-Irala* (1980), which ruled that foreign victims of international law violations could sue the perpetrators for civil redress in US courts, even for acts which occurred completely abroad, if the alleged offender was present in the US.⁷⁶ Since then a series of cases have elaborated on the scope of this provision, first by finding that the phrase ‘law of nations’ in the ATS referred only to conduct by a State (so a non-State actor could not violate it, no matter how repugnant its acts)⁷⁷, and secondly (in contrast) that acts comprising genocide or war crimes (such as official torture) were prohibited in international law whether committed by a State or a non-State actor, so a private individual or an unrecognised State could be held accountable for them.⁷⁸ Lastly, courts ruled that “the ATS is a jurisdictional statute creating no new causes of action...”⁷⁹ and that only a narrow class of civil cases can be pursued under it, i.e. those where the cause of action is universally recognised by the law of nations as a core prohibited norm, the norm is binding or obligatory, the norm is specific in its cause of action, and no domestic policy factors make the case non-justiciable.⁸⁰ Given these restrictions, there is now real doubt about the ability to use the ATS to remedy international crimes, even those universally recognised as settled norms (for example the

⁷⁵ *Varvarin Bridge Case - 35 citizens of the Former Federal Republic of Yugoslavia v Germany*, Appeal Judgement, III ZR 190/05, BGHZ 166, 384 (2 November 2006), <https://opil.ouplaw.com/display/10.1093/law/ildc/887de06.case.1/law-ildc-887de06?prd=ORIL>. Also “Serbian Families Sue Germany over NATO Bombing”, *DW online* (15 October 2003), <https://www.dw.com/en/serbian-families-sue-germans-over-nato-bombing/a-997339>.

⁷⁶ *Filártiga v Peña-Irala*, 630 F.2d 876 (2d. Cir.) (1980).

⁷⁷ *Tel Oren v Libyan Arab Republic* 726 F.2d 774 (1984) – see in particular the opinion of Judge Edwards at 791.

⁷⁸ *Kadic v Karadzic*, 70 F.3d 232 (2nd Cct (Newman J presiding), 1995), 241–242, and 244–245. Also [38]. Note however that there appears to be no legal liability for *organisations* for acts committed by their agents, as confirmed in the case of *Mohamad et al. v Palestinian Authority et al.*, 132 SC 1702 (2012). See also “*Al Shimari v CACI et al.*”, Center for Constitutional Rights, available at: <http://ccrjustice.org/ourcases/current-cases/al-shimari-v-caci-et-al>.

⁷⁹ *Sosa v Alvarez-Machain*; *United States v Alvarez-Machain* 542 US 692 (2004), 734. This view of the ATS as strictly jurisdictional was followed in *Iraq and Afghanistan Detainees Litigation* (*Ali et al. v Rumsfeld et al.*), Judgement, 479 F.Supp. 2d (District Court (D. C.), 27 March 2007); and on appeal in *Ali et al. v Rumsfeld et al.*, Judgement, Case 07–5178 (Court of Appeal (D. C.), 21 June 2011).

⁸⁰ *Sosa*, (n.104), Part IV(C).

prohibitions on targeting non-military facilities, of conducting disproportionate strikes or of using prohibited types of weapons).

Recent ATS claims have been directed not at wartime abuses by State organs but at US companies allegedly aiding or abetting foreign police or military forces to violate human rights⁸¹, or engaging in serious human rights abuse/torture while performing contractual obligations to the US military (such as conducting ‘enhanced interrogation’ of detainees in overseas prisons⁸²). These cases have established further that the claim must “touch and concern” the US “with sufficient force”, and something more than just having a corporate headquarters in the US was required.⁸³

There are further difficulties with securing assets to satisfy compensation awards: in *Kadic v Karadzic* one set of plaintiffs was awarded USD745 million and the other USD4.5 billion, which was a significant and hard-fought legal win for the victims, but neither award was anywhere near enforceable in practice.⁸⁴ The same was true for the successful plaintiff in *Filártiga*. These defendants had no or very little assets in the US, and there is no ability in international law for successful claims against individuals to be made enforceable against the State on whose behalf they acted.⁸⁵ These victories were therefore rather Pyrrhic.

Further, although the ATS in its terms allows actions *against foreign States themselves*, these cases (or ones against their organ(s), e.g. its armed forces) will overwhelmingly fall foul of well-established international rules on foreign State immunity as incorporated into national law.⁸⁶ A US Appeals Court confirmed this in *Siderman de Blake v Republic of Argentina* (1992), holding that even the violation of the prohibition against torture did not result in a waiver under the FSIA.⁸⁷ This was confirmed in 2012 when the International Court of Justice dismissed the idea of there being any general exception in international law to foreign State immunity, even for the most heinous of international crimes.⁸⁸ Despite this, US domestic law does allow an exception if the defendant State is on the US State Department’s

⁸¹ *Kiobel v Royal Dutch Shell Petroleum Co*, 133 SC 1659 (2013).

⁸² *Al Shimari et al. v CACI Premier Technology Inc et al.*, 758 F.3d 522, Case 13-1937 (Court of Appeals, 4th Circuit, 30 June 2014).

⁸³ This position was endorsed and applied in *Sexual Minorities of Uganda v Lively*, 960 F.Supp.2d 304 (2013) (District Court of Massachusetts), and *Mwani v Bin Laden and Al Qa’ida*, 947 F.Supp.2d 1 (2013) (District Court of DC).

⁸⁴ News report, *National Law Journal* (Feb 19, 2001) at C25. See also M. Vullo, “Prosecuting Genocide”, 2 *Chicago Journal of International Law* 495 (2001).

⁸⁵ This mirrors the situation in the ICC; see Part 3.

⁸⁶ In the US, the relevant legislation is the Foreign Sovereign Immunities Act (FSIA) of 1976, Pub. L. 94–583, 90 Stat. 2891, 28 U.S.C. Section 1330, 1332(a), 1391(f) and 1601–1611. 28 U.S.C. 1605 outlines the limited circumstances in which a foreign state is not immune from the jurisdiction of US courts.

⁸⁷ *Siderman de Blake v Republic of Argentina* (1992) 965 F.2d 699 (9th Cir.), 718–719. This was confirmed in *Federal Republic of Germany v Prinz*, 26 F.3d 1166 (D.C. Cir, 1994) (a wartime violation), and also in *Smith v Socialist People’s Libyan Arab Jamahiriya* (1997), 101 F.3d 239 (2nd Cir, 1997).

⁸⁸ *Case concerning Jurisdictional Immunities of the State (Germany v Italy; Greece intervening)*, 3 February 2012 (ICJ). The judgement of the majority is at: <https://www.icj-cij.org/files/case-related/143/143-20120203-JUD-01-00-EN.pdf>.

‘State Sponsors of Terrorism’ list.⁸⁹ Even if the defendant State is on the State Department’s list, the ability of victims to obtain enforcement orders is of course dependent on them having suitable assets in the jurisdiction in the first place - the litigation to seize assets belonging to Iran’s Bank Melli for distribution to US victims of terrorism⁹⁰ is a rare example.

The last possibility victims and advocates might consider is to bring a case *against the US State itself* (or its organ(s), such as its armed forces). There is no possibility of bringing such a case *in a foreign court*, as the US (along with many other military powers deploying troops abroad⁹¹) concludes Status of Forces Agreements (SOFAs) with host governments which shield their armed forces from all local criminal and civil process. For example, the United States’ agreement with the government of Iraq excluded all claims against US soldiers for operational activity.⁹² Further, the law on state immunity will apply. Further, if a case was brought against the US or its organ(s) *in the US’ own courts*, it will face different procedural bars in domestic law, particularly the ‘act of State’/*acta iure imperii* doctrine which prevents cases being brought against the US government for any official (public) acts.⁹³ Other States have similar legal rules barring cases against their governments for wartime acts.⁹⁴ This has proven to be a substantial barrier for many victims.

4.2 United Kingdom

However, some States have national laws specifically allowing compensation claims to be made against their governments for official acts. The UK and other

⁸⁹ In 2023 this consists of four States – Cuba, Iran, Syria and North Korea. See for example *Daliberti v Republic of Iraq*, 97 F.Supp.2d 38 (D.D.C., 2000); *Weinstein v Islamic Republic of Iran*, 184 F.Supp.2d 13 (D.D.C., 2002). In 2022 the US House of Representatives and the Senate passed resolutions calling on the US Secretary of State Antony Blinken to add Russia to the list (he has so far refused). Canada also has a ‘State Supporter of Terrorism’ mechanism under its *State Immunity Act*, with Iran and Syria listed since 2012; B. Immenkamp and G. Leclerc (European Parliamentary Research Service) “Russia’s War Against Ukraine: Designating a State as a Sponsor of Terrorism”, PE 738.218 (November 2022), [https://www.europarl.europa.eu/RegData/etudes/ATAG/2022/738218/EPRS_ATA\(2022\)738218_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2022/738218/EPRS_ATA(2022)738218_EN.pdf).

⁹⁰ See *Weinstein v Islamic Republic of Iran* (n.114); *Bank of New York v Bank Saderat Iran New York Representative Office and Bank Sepah Iran, New York Representative Office* (2010), Docket No. 09-3034-CV, <http://caselaw.findlaw.com/us-2nd-circuit/1527211.html>; [39].

⁹¹ While the US military has the largest foreign presence and therefore accounts for most SOFAs, the UK, France, Germany, Italy, Spain, Russia and Australia and many other nations also station military forces abroad and negotiate SOFAs with their host countries.

⁹² See “Iraqi Parliament Approves Security Pact”, *The New York Times online* (27 November 2008), <https://www.nytimes.com/2008/11/27/world/africa/27iht-27iraq-sofa.18201593.html>.

⁹³ The *UN Convention on Jurisdictional Immunities of States and Their Property* (UNGA Res. 59/38 of 2 December 2004, not yet in force) confirms the immunity of States for *acta iure imperii*; <https://legal.un.org/avl/hl/cjstpc/cjstpc.html>.

⁹⁴ For example, the *Varvarin Bridge Case*, (n.100). Additionally, s723 in conjunction with s328 of the German *Code of Civil Procedure* (Zivilprozessordnung – ZPO) refuses recognition and enforcement of a foreign judgement if (*inter alia*) procedural protections for the defendant were not met in the foreign court process, it would be inconsistent with public policy, or there is a lack of reciprocity by the foreign State in which the judgement was rendered - see [40].

member states of the *European Convention on Human Rights (ECHR)* are obligated to respect core ECHR rights (such as the prohibitions against arbitrary killing and torture) whether during peacetime or conflict.⁹⁵ UK law thus allows claims to be brought against public officials under the *Human Rights Act (1998)*⁹⁶ or in common law tort. Further, the European Court on Human Rights has ruled that core ECHR rights apply outside of a member States' territorial boundaries if the State has 'effective control' of territory (as the UK had during its occupation of Basra/Southern Iraq).⁹⁷ This affords the opportunity for victims of international crimes committed by UK service members abroad to pursue compensation claims. In fact, the UK's campaigns in Iraq and Afghanistan saw an unprecedented number of claims for compensation brought against the UK's Ministry of Defence.⁹⁸

The 'Camp Breadbasket' incident was one infamous incident leading to a series of claims. In May 2003 during their occupation of Southern Iraq, UK soldiers taking part in 'Operation Ali Baba' (which was aimed at stopping looting from a humanitarian aid distribution centre situated just outside Basra⁹⁹) forced a number of Iraqis to strip naked and participate in sexually humiliating acts which were jeered at and photographed by many UK soldiers [41]. In 2005 three soldiers were court martialled, found guilty and dishonourably discharged for taking and sharing the photographs or for failing to have the "moral courage" to report the abuse to their superiors (but not for any war crime) [42]. As far as damages went, the Iraqi victims were represented by Phil Shiner, the Birmingham-based Principal and Founder of Public Interest Lawyers (International) Ltd., in their bids for compensation from the Ministry of Defence. In 2008 a further five Iraqis made compensation claims through Leigh Day LLP, another large UK-based claimant-only law practice [43].

Also in 2003, Iraqi civilian Baha Mousa suffered 93 instances of abuse leading to his death after being taken into detention at the UK military base in Basra. Eight other Iraqis were also subject to serious abuse. Three members of the Queen's Lancashire Regiment were prosecuted (only one was convicted) for inhumane treatment as a war crime under the UK's *International Criminal Court Act 2001* ('ICC Act').¹⁰⁰ The case spawned a range of related high-profile litigation, including civil proceedings

⁹⁵ *European Convention on Human Rights (ECHR)*, opened for signature in Rome on 4 November 1950 (entry into force on 3 September 1953), https://www.echr.coe.int/documents/d/echr/convention_eng, Art.15.

⁹⁶ The *Human Rights Act (1998)* implements into UK law its obligations under the ECHR. The UK was a founding member of the treaty, ratifying it in 1951.

⁹⁷ *Al-Skeini et al v United Kingdom* (Application No. 55721/07), European Court of Human Rights Grand Chamber (7 July 2011), [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-105,606%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-105,606%22]}). See also *Al-Jedda v United Kingdom* [2011] ECHR 1092 (7 July 2011).

⁹⁸ UK Government response to the Joint Parliamentary Committee on Human Rights' Ninth Report of Session 2019–2021 (29 December 2020), <https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/1120/112002.htm>, 1.

⁹⁹ The centre was known locally as 'Camp Breadbasket' because of its links with the UN World Food Programme. During the occupation of Basra by British troops, the Camp was used to accommodate elements of the Royal Regiment of Fusiliers.

¹⁰⁰ A total of seven officers and soldiers were prosecuted from 2006 to 2007 in connection with the abuse suffered by Baha Mousa and the eight other Iraqis detained with him; three of the seven were prosecuted for inhumane treatment as a war crime, and five for other offences. All were acquitted except the one soldier mentioned in the main text. See Williams (n.125).

seeking damages for injuries.¹⁰¹ In 2008 Baha Mousa's father and the eight other Iraqis were awarded a total sum of near £3 million for the abuse that had been suffered [44]. There were also successful judicial review proceedings instituted on behalf of relatives seeking a public inquiry into Baha Mousa's death; eventually a damning public inquiry was set up.¹⁰² Throughout these proceedings, the relatives were also represented by Phil Shiner and his firm.

As a result of his prominent role in pursuing Iraqi cases against the Ministry of Defence, Shiner became a legal celebrity. In 2004 he was named Human Rights Lawyer of the Year, an award given jointly by the UK human rights organisations Liberty and JUSTICE, for "his tremendous skill, tenacity and dedication to fighting for justice". In 2007 he was named the Law Society's 'Solicitor of the Year' [45]. In 2010 the UK Labour Government set up the Iraq Historic Allegations Team (IHAT) to investigate allegations of abuse and prepare evidence which could be taken to criminal trials. Shiner's firm, PIL, was responsible for bringing 65% of the 3392 allegations received by IHAT (most of the rest were brought by Leigh Day LPP) [46].

However, in 2014 the *Al-Sweady Public Inquiry* into the high-profile 'Battle of Danny Boy'¹⁰³ found that "all the most serious allegations... were wholly and entirely without merit or justification".¹⁰⁴ In January 2016 Penny Mordaunt, then UK Minister for the Armed Forces, described the "parasitic" behaviour of law firms "churning out spurious claims against our armed forces on an industrial scale" as being the enemy of justice¹⁰⁵, and then Prime Minister Theresa May used her 2016 Conservative Party conference speech to vow never again to allow "activist left-wing human rights lawyers" to "harass" British soldiers [47]. IHAT came under further pressure from the House of Commons Defence Committee, which delivered a scathing report of its failings and mismanagement and labelled it "an unmitigated failure for both 'victims' and military personnel alike".¹⁰⁶

As such, the two UK law firms which had brought the vast majority of the claims – PIL and Leigh Day – were investigated by the Solicitors' Regulation Authority for possible breaches of professional standards. In 2017 Shiner was struck off the roll of solicitors after being found guilty of multiple charges of misconduct for paying people in Iraq to find clients to seek civil compensation and to bring forward allegations requiring criminal investigation¹⁰⁷ (Leigh Day, which brought over 300 "successful"

¹⁰¹ This eventually culminated in *Al-Skeini* (n.122).

¹⁰² *Report of the Baha Mousa Inquiry* (2011), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/279190/1452_i.pdf.

¹⁰³ This had been set up to investigate claims appearing in the media that UK troops had mistreated Mahdi Army insurgents detained following a battle near Basra in 2009. The battle was named after the nearby 'Danny Boy' checkpoint.

¹⁰⁴ The report found the UK troops had abused detainees under the *Geneva Conventions* (deprivation of food and sleep, blindfolding and 'threatening techniques' during 'tactical questioning'), but cleared them of all of the most serious allegations – "In Conclusion", *Al-Sweady Inquiry Report*, 5.196, 5.198 and 5.201 (pp. 973–974), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388307/43358_16c_Part_5_Chapter_3.pdf. See also "Al-Sweady Inquiry: UK Army Murder Claims 'Deliberate Lies'", *BBC online* (17 December 2014), <https://www.bbc.co.uk/news/uk-30515369>.

¹⁰⁵ "Who Guards the Guardians? MoD Support for Former and Serving Personnel", Sixth Report of Session 2016–2017 of the House of Commons Defence Committee (HC 109, 7 February 2017), <https://www.legal-tools.org/doc/7a0253/pdf/>, 21.

¹⁰⁶ "Who Guards the Guardians?" (n.136), 3.

¹⁰⁷ Bowcott (n.132).

mistreatment claims regarding Iraq, was cleared of misconduct) [48, 49]. Although these findings did not involve any non-Iraq claims, the UK government used the opportunity afforded by the scandal to close both IHAT and *Operation Northmoor*, its Afghanistan equivalent.

Shiner's misconduct aside, the closure of the investigations indicated a national dialogue increasingly hostile of the idea that UK forces committed war crimes and that their victims deserved compensation.¹⁰⁸ The Conservative Party's manifesto for the 2019 general election promised new legislation designed to limit what it called "vexatious legal claims that undermine our Armed Forces"¹⁰⁹ within 100 days of gaining office; the result was the *Overseas Operations (Service Personnel and Veterans) Act (2021)*. Although the Act in its final form did not make any changes to the regime governing the prosecution of criminal conduct by UK service personnel¹¹⁰, it eliminated any possibility of a compensation claim (even for serious abuse, such as in the *Baha Mousa case*) being brought more than six years down the track, whatever the reason for the delay.

As many Iraqi and Afghan war crimes investigations and prosecutions began as civil compensation claims for which victims need to navigate a complex foreign judicial system, the Act's six-year longstop raises the real possibility that not only many victims will not be able to claim compensation in time, but the criminal conduct giving rise to the claims will evade scrutiny as well. Needless to say, the vilification of legal advocates for political gain could also result in a 'chilling effect' amongst some in the British legal community who take on pro-claimant war crimes work, which also will impact on future claims.

4.3 *Ex gratia* compensation

Aside from the difficulties of claiming reparations through a court process, many payments have actually been made by applying in theatre to the relevant States' *ex gratia* compensation budget. Contrary to reparations paid according to a court verdict of unlawfulness, these are payments arising out of military activity considered *lawful* under the international laws of war (as well as activity that is unlawful but unacknowledged as such). They often cover 'collateral damage' - those victims and damage that is incidental to a lawful targeting operation. Many States have adopted tactical payment schemes to cover 'collateral damage' losses in recent theatres of war, such as in Iraq, Afghanistan, Somalia and Syria. Below some of the recent practice of *ex gratia* compensation by States which deploy their armed forces overseas is examined.

The US did not have a regular compensation scheme until the passage of its *Interim Regulations for Condolence or Sympathy Payments to Friendly Civilians for Injury or Loss That is Incident to Military Operations*¹¹¹ in December 2020. Before this, the US mostly used its development arm USAID to assist individuals and families in

¹⁰⁸ See "Iraq War Allegations Probe to End", *BBC online* (10 February 2017), <https://www.bbc.co.uk/news/uk-38937053>.

¹⁰⁹ Conservative Manifesto (2019), 52, <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>.

¹¹⁰ *Overseas Operations (Service Personnel and Veterans) Act 2021*, Part II, <https://www.legislation.gov.uk/ukpga/2021/23/contents/enacted>.

¹¹¹ See <https://media.defense.gov/2020/Jun/23/2002320314/-1/-1/1/INTERIM-REGULATIONS-FOR-CONDOLENCE-OR-SYMPATHY-PAYMENTS-TO-FRIENDLY-CIVILIANS-FOR-INJURY-OR-LOSS-THAT-IS-INCIDENT-TO-MILITARY-OPERATIONS.PDF>.

Afghanistan and Iraq with livelihood, medical issues and rehabilitation of community facilities. The UK had a battlefield redress scheme - its Basra Area Claims Office paid £2.1 million to settle 1145 claims made over the period 2003–2009¹¹², while its Area Claims Office in Afghanistan paid £825,000 to settle around 1100 claims made over the period 2007–2009. The vast majority of funds paid were for property damage¹¹³, with the average payment being a mere GBP3,650 [51]. Australia also had a scheme (the *Tactical Payments Scheme* (introduced in 2009)) but it was only used to make one payment until Australia withdrew from Iraq [52]. Other troop contributing nations in Iraq and Afghanistan including Poland, the Netherlands and Canada, all had ‘act of grace’ schemes with varying levels of coverage and generosity.¹¹⁴ In 2004 NATO established a Claims Office in Afghanistan to receive and determine non-combat losses suffered by civilians¹¹⁵, and it introduced a policy on compensating collateral damage in ISAF operations some years later.¹¹⁶ AMISOM also made efforts to track and compensate collateral damage during its involvement in Somalia, although systems were rudimentary.¹¹⁷

There is substantive anecdotal evidence that when international forces provide compensation (monetary and/or in-kind help) to victims, especially if combined with explanations and apologies for harm, civilian hostility toward international forces decreases. The investigation, acknowledgement and compensation processes help to dignify the family, fulfil local expectations about gestures required when loss is inflicted¹¹⁸, and ameliorate what would otherwise be considered a gross lack of regard for the lives of civilians and a general impunity toward their suffering.¹¹⁹

These schemes have however attracted much criticism. Whilst they have paid out many thousands of dollars to victims, all schemes have been an afterthought, patchy in coverage, clumsy in operation and often at the whim of the local military commander. This has resulted in resentment, the impression that foreign forces can act with impunity, and gross inequalities between victims even when they have suffered near-identical loss. These feelings were often exacerbated when victims had no alternative remedy under Status of Forces Agreements (see above) which shield foreign forces from local court process.

Further, often they were not easy to access. Eligibility requirements varied (and were particularly difficult to satisfy when there were joint operations with local or other foreign forces), claims were often difficult to make (forms had to be completed in the foreign language, there were often extensive documentation requirements

¹¹² The £2.1 million was separate to another £19.8 million paid in 326 cases (until 2017) for torture or other abuse at the hands of UK troops: “Ministry of Defence paid nearly £22 million in Iraq War compensation claims”, *ITV* (13 June 2017). See also [50].

¹¹³ “Iraq war compensation total at £9 million”, *Sunday Express* (16 June 2010).

¹¹⁴ See Fowler (n.62), 178–188.

¹¹⁵ NATO Claims Policy for Designated Crisis Response Operations, AC/119-N (2004) 0058 (5 May 2004).

¹¹⁶ *The Non-Binding Guidelines for Payments in Combat-Related Cases on Civilian Casualties or Damage to Civilian Property* (2010), under which it encouraged member States to “proactively offer assistance... in order to mitigate human suffering”; (NATO SG (2010) 0377 (9 June 2010), 533 (including fn 123 therein); [53].

¹¹⁷ Fowler (n.62), 188–190.

¹¹⁸ For example, “honour payments” or compensation for loss is a deeply-rooted custom in Afghanistan; Campaign for Innocent Civilians in Conflict (CIVIC), “Addressing Civilian Harm in Afghanistan: Policies and Practices of International Forces” (2010).

¹¹⁹ *Id.*, 3.

which were extremely difficult to obtain in a warzone, and many claims needed to be lodged at foreign military bases which were often in inaccessible locations). Many victims were too fearful of dealing with foreign forces, rejected the notion of no-fault compensation, or simply did not know about the schemes in time to claim.¹²⁰ Lastly, the relationship between an *ex gratia* payment made in theatre and a later claim in court (or to a government-run compensation scheme) that the military act giving rise to the victim's loss was in fact unlawful, still remains unclear.¹²¹ All this means that victims and/or their advocates face substantial difficulties in even making claims against these funds, let alone having the claims accepted and payment made.

5. Conclusions

Compensation for loss, particularly war crimes and crimes against humanity committed during conflict, is a right in international law which all nation States (and non-State actors) are obliged to respect. This is particularly the case with respect to egregious violations such as torture, genocide and mass killings. This chapter has surveyed the practice of international tribunals which have operated in the wake of mass atrocity, finding all too often that the transitional justice process has proven very difficult for victims and/or their advocates to access, with the result that the process fails the very people it ostensibly tries to assist. Instead, court procedures are focused for security, political and economic reasons on criminal prosecutions, and where repair of victims has been recognised, either in a court-mandated award or in an administrative scheme, it has too often comprised only symbolic gestures or general community building. These aspects are important elements of broader justice, but they do not take the place of compensation to repair individual lives and livelihoods.

Further, it has been extremely difficult for victims and advocates working on their behalf to bring individual claims against foreign military forces (whether this is in local courts or in the courts of the foreign military power) for a range of procedural and jurisdictional reasons. Even the minority of court cases in the US and the UK which have managed to navigate the restrictions of domestic laws to win large compensation awards too often have faced difficulties in enforcement. These procedural restrictions appear destined to increase rather than diminish in coming years. Lastly, although important in dignifying victims of collateral damage or military mistake, *ex gratia* schemes are also still too *ad hoc* in their operation, coverage and outcomes to meet the demands of justice.

The international community as a whole bears responsibility for the difficulties faced by victims everywhere in accessing compensation, because it is they who maintain the greater focus on criminal outcomes, prize a quick return from conflict to international cooperation and trade, and fail to donate sufficient funds to finance compensation where indigence prevents repair. The road for victims, their support groups and their legal advocates will be long and difficult to turn this self-serving situation around.

¹²⁰ Campaign for Innocent Civilians in Conflict (CIVIC) (n.153), Executive Summary, 1–3.

¹²¹ See the *Dutch Chora judgement*, Case number C/09/581972 HA ZA 19-1099 and C/09/604819 HA ZA 20/1244 (The Hague District Court, 23 November 2022); <https://reparations.qub.ac.uk/assets/uploads/Chora-Dutch.pdf>.

Additional information


Parts of this chapter were previously published in the doctoral thesis by the same author: Alexandra Fowler, *State-Based Compensation for Victims of Armed Conflict: Recent Developments in Practice*. 2018-02-28. Unpublished doctoral thesis. The University of Sydney. Available from: <https://ses.library.usyd.edu.au/handle/2123/20055>.

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References

- [1] Kress K, Sluiter G. Fines and Forfeiture Orders. In: Cassese A, Gaeta P, Jones J, editors. *The Rome Statute of the International Criminal Court: A Commentary*. Oxford: Oxford University Press; 2002
- [2] Brammertz S, Jarvis M, editors. *Prosecuting Conflict-Related Sexual Violence at the ICTY*. Oxford: Oxford University Press; 2016 Chapter 10
- [3] Tomuschat C. *Human Rights: Between Idealism and Realism*. 3rd ed. Oxford: Oxford University Press; 2014. p. 411. Reparation – Civil Claims against Human Rights Violators (Chapter 18)
- [4] Baig L. Sentencing for Sexual Violence Crimes. In: Brammertz S, Jarvis M, editors. *Prosecuting Conflict-Related Sexual Violence at the ICTY*. Oxford: Oxford University Press; 2016. p. 290
- [5] Rangelov I, Theros M. Transitional justice in Bosnia and Herzegovina: Coherence and complementarity of EU institutions and civil society. In: Ambos K, Large J, Wierda M, editors. *Building a Future on Peace and Justice*. Berlin: Springer-Verlag; 2009. pp. 361-362
- [6] Wemmers J. Victim reparation and the international criminal court: Evaluating the success of the ICC with respect to victims. *International Review of Victimology*. 2009;16:123
- [7] Dannenbaum T. A disappointing end of the road for the mothers of Srebrenica Litigation in the Netherlands. *EJIL: Talk!* 2019. Available from: <https://www.ejiltalk.org/a-disappointing-end-of-the-road-for-the-mothers-of-srebrenica-litigation-in-the-netherlands/>
- [8] Katayanagi M. Property restitution and the rule of law in peacebuilding: Examining the applicability of the Bosnian Model. In: Paper presented to World Bank Conference on Land and Poverty, 24-27 2014. Washington; 2014
- [9] van den Auweraert P, Cvetkovski I. Reparations for Wartime Victims in the Former Yugoslavia: In Search of the Way Forward, Executive Summary. 2013
- [10] Mugiraneza J. Rwanda Genocide: Why compensation would help the healing. *The Guardian*. 2014
- [11] Waldorf L. Goats and graves: Reparations in Rwanda's community courts. In: Ferstman C et al., editors. *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity: Systems in Place and Systems in the Making*. Leiden: Martinus Nijhoff; 2009. p. 519
- [12] Sehene Ruvugiro E. Rwandan reparations fund breaks ground, but is still not enough, say Victims. *JusticeInfo.net*. 2019. Available from: <https://www.justiceinfo.net/en/40610-rwandan-reparations-fund-breaks-ground-but-is-still-not-enough-say-victims.html>
- [13] International Organisation for Migration (IOM). *Sierra Leone Conflict Victims Receive Compensation*. 2013
- [14] SCSL Chief Prosecutor Brenda Hollis. No sign of victim compensation in Sierra Leone. *The Hague Justice Portal*. 2010
- [15] Boyle A. A long time coming: Understanding the landmark ruling from the Khmer Rouge Trials. *Just Security*. 2018
- [16] Boyle D. Confronting justice as Khmer Rouge Tribunal drops Case against Im Chaem. *ABC News*

online. 2017. Available from: <https://www.abc.net.au/news/2017-02-26/no-simple-justice-at-the-khmer-rouge-tribunal/8301988>

[17] Open Society Justice Initiative. Recent developments in the extraordinary chambers in the Courts of Cambodia: Deadlock continues in Ao An Case. 2020; 1-3. Available from: <https://www.justiceinitiative.org/uploads/54dc3814-d6c0-49ea-976c-1d4be896418f/briefing-eccc-recent-developments-20200109.pdf>

[18] Wallace J. The Bucolic Life of a Cambodian Grandmother Accused of Mass Killings. *New York Times online*. 2017. Available from: <https://www.nytimes.com/2017/02/24/world/asia/cambodia-khmer-rouge-im-chaem.html>

[19] Phan H. Reparations to Victims of Gross Human Rights Violations: The Case of Cambodia. *East Asia Law Review*. 2009;4:277, 284-285

[20] Sperfeldt C. Reparations at the extraordinary chambers in the Courts of Cambodia. In: Ferstman C et al., editors. *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity: Systems in Place and Systems in the Making*. Leiden: Martinus Nijhoff; 2009. p. 479

[21] Ferstman C. Reparations for sexual and other gender-based violence in gender perspectives on torture: A compilation (American University Washington College of Law's Center for Human Rights and Humanitarian Law. 2018

[22] Fowler A. State-based compensation for victims of armed conflict: Recent developments in practice. University of Sydney e-thesis repository, 2018. Available from: https://ses.library.usyd.edu.au/bitstream/handle/2123/20055/FOWLER_AL_Thesis.pdf?sequence=1

[23] Faverio A, Naimark A. Perpetual injustice: The 20 year battle for reparations in Peru. Available from: <https://www.corteidh.or.cr/tablas/r32300.pdf>

[24] Gualde A, Luterstein N. The Argentinian Reparations Programme for Grave Violations of Human Rights Perpetrated during the Last Military Dictatorship (1976-1983), in Ferstman et al editors. 4;415-434

[25] Lira E. "The reparations policy for human rights violations in Chile", in P. de Grieff, *The Handbook of Reparations* (Oxford University Press, Oxford 2006), 55-101

[26] Sandoval C. Chile and the Unfinished Business of Justice and Reparation. *TerraNullius Weblog*. 2013

[27] Staff Writer. Sri Lanka moves to compensate war victims after years of delay. *The Globe Post online*. 2018. Available from: <https://theglobepost.com/2018/06/13/sri-lanka-war-compensation/>

[28] Office for Reparations. A historical perspective of compensating for loss caused due to conflicts in Sri Lanka. Available from: https://www.reparations.gov.lk/web/index.php?option=com_content&view=article&id=96&Itemid=246&lang=en

[29] Luping D. Investigation and prosecution of sexual and gender-based crimes before the international criminal court. *Journal of Gender, Social Policy and the Law*. 2009;17(2):430

[30] Mani R. Reparation as a component of transitional justice: Pursuing reparative justice in the Aftermath of Violent Conflict. In: Parmentier S, De Feyter K. editors. *Out of the Ashes: Reparation for Victims of Gross and*

Systemic Human Rights Violations. Antwerp: Intersentia; 2006. p. 55 (paraphrased)

[31] Martinez M. Peru's painful mirror. International Center for Transitional Justice. 2013

[32] Correa C. Reparations in Peru: From recommendations to implementation. International Center for Transitional Justice. 2013

[33] Magarrell L. Reparations for massive or widespread human rights violations: Sorting out claims for reparations and the struggle for social justice. Windsor Yearbook of Access to Justice. 2003;22:85, 91-94, 96-97

[34] Luftglass S. Crossroads in Cambodia: The United Nations' Responsibility to Withdraw Involvement from the Establishment of a Cambodian Tribunal to Prosecute the Khmer Rouge. Virginia Law Review. 2004;90:893, 903

[35] Simic G. Searching for reparation: Has the ICTY brought real justice for the victims in Bosnia and Herzegovina?. *ResearchGate*. 2013

[36] Pena M. ICC appeals chamber issues its first judgement on reparations. *International Justice Monitor*. 2015. Available from: <https://www.trustfundforvictims.org/en/what-we-do/reparation-orders>

[37] See KR. Africa attacks the international criminal court. *NY Review of Books*. 2014

[38] Davis J. Justice across Borders: The Struggle for Human Rights in US Courts. Cambridge: Cambridge University Press; 2008. pp. 56-57

[39] Chung A. US Top Court Turns Away Dispute Involving Iran's Bank

Melli. *Reuters online*. 2018. Available from: <https://www.reuters.com/article/us-usa-court-iran/u-s-top-court-turns-away-dispute-involving-irans-bank-melli-idUSKBN1GH2ST>

[40] Handl E. Introductory note to the German Supreme Court: Judgement in the Distomo Massacre Case. International Legal Materials. 2003;42(5):1027-1029

[41] Williams A. From war to occupation in Iraq: The killing of Baha Mousa. *The Justice Gap*. 2016. Available from: <https://www.thejusticegap.com/war-occupation-iraq-killing-baha-mousa/>

[42] Gillan A. Four guilty, but questions remain. *The Guardian online*. 2005. Available from: <https://www.theguardian.com/uk/2005/feb/24/iraq.military>

[43] Day L. Camp Breadbasket – Five More Iraqi Civilians Serve Claims Against MoD Following Abuse by British Soldiers. 2008. Available from: <https://www.leighday.co.uk/news/news/news-archive/camp-breadbasket-five-more-iraqi-civilians-serve-claims-against-mod-following-abuse-by-british-soldiers/>

[44] Norton-Taylor R. MoD Pays £3 m Over Abuse of Iraqis in Custody. 2008. Available from: <https://www.theguardian.com/uk/2008/jul/11/military.defence>

[45] Bowcott O. Phil Shiner: Steep Fall from Grace for Leading UK Human Rights Lawyer. 2017. Available from: <https://www.theguardian.com/law/2017/feb/02/phil-shiner-steep-fall-from-grace-leading-uk-human-rights-lawyer-iraq>

[46] Norton-Taylor R, Cobain I. Al-Sweady Inquiry: Iraqis Mistreated but UK Troops did not Murder Insurgents.

The Guardian online. 2014. Available from: <https://www.theguardian.com/uk-news/2014/dec/17/al-sweady-inquiry-uk-troops-mistreated-iraqi-prisoners-not-murder>

[47] Osborne S. Theresa may speech: Tory Party Conference Erupts in Applause as PM Attacks 'Activist Left Wing Human Rights Lawyers'. *The Independent*. 2016. Available from: <https://www.independent.co.uk/news/uk/politics/theresa-may-tory-conference-speech-applause-attacks-activist-left-wing-human-rights-lawyers-a7346216.html>

[48] Iraq Case Law Firm Leigh Day 'Had No Sinister Agenda'. *BBC online*. 2017. Available from: <https://www.bbc.com/news/uk-39736411>

[49] Hyde J. Leigh Day in the Clear as High Court Throws Out SRA Appeal. *Law Society Gazette*. 2018. Available from: <https://www.lawgazette.co.uk/news/leigh-day-in-the-clear-as-high-court-throws-out-sra-appeal/5068006.article>

[50] Gordon C. Four Iraqi citizens win High Court damages against Ministry of Defence. *The Independent*. 2017

[51] Savage M. £8m: Britain's Compensation Bill for Dead and Injured Iraqis. *The Independent*. 2010

[52] Macmillan N. The tactical payments scheme: Configurations of life and death in the context of war. *Current Issues in Criminal Justice*. 2012;23(3):313-331

[53] Oswald B, Wellington B. Reparations for violations in armed conflict and the emerging practice of making amends. In: Liivoja R, McCormack T, editors. *Routledge Handbook of the Law of Armed Conflict*. Oxon, New York: Routledge; 2016



*Edited by Sandro Serpa
and Diann Cameron Kelly*

Social activism is a key component for strengthening democracies and having the voices of marginalized people heard. However, in many societies access to power is curtailed for many people. Their voices are suppressed and their livelihood is undervalued. In essence, they are disconnected. Social activism connects people to each other and promotes a dynamic to confront power and make the invisible visible. This book uses research and reflection on social activism to speak to the dynamics of a disconnected world. Using an international lens, the authors capture social activism in the context of LGBTQIA+ rights, war crimes, food insecurity, and more. Mobilizing the marginalized is critical to connecting our world and giving the oppressed access to power, which is their right.

Published in London, UK

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