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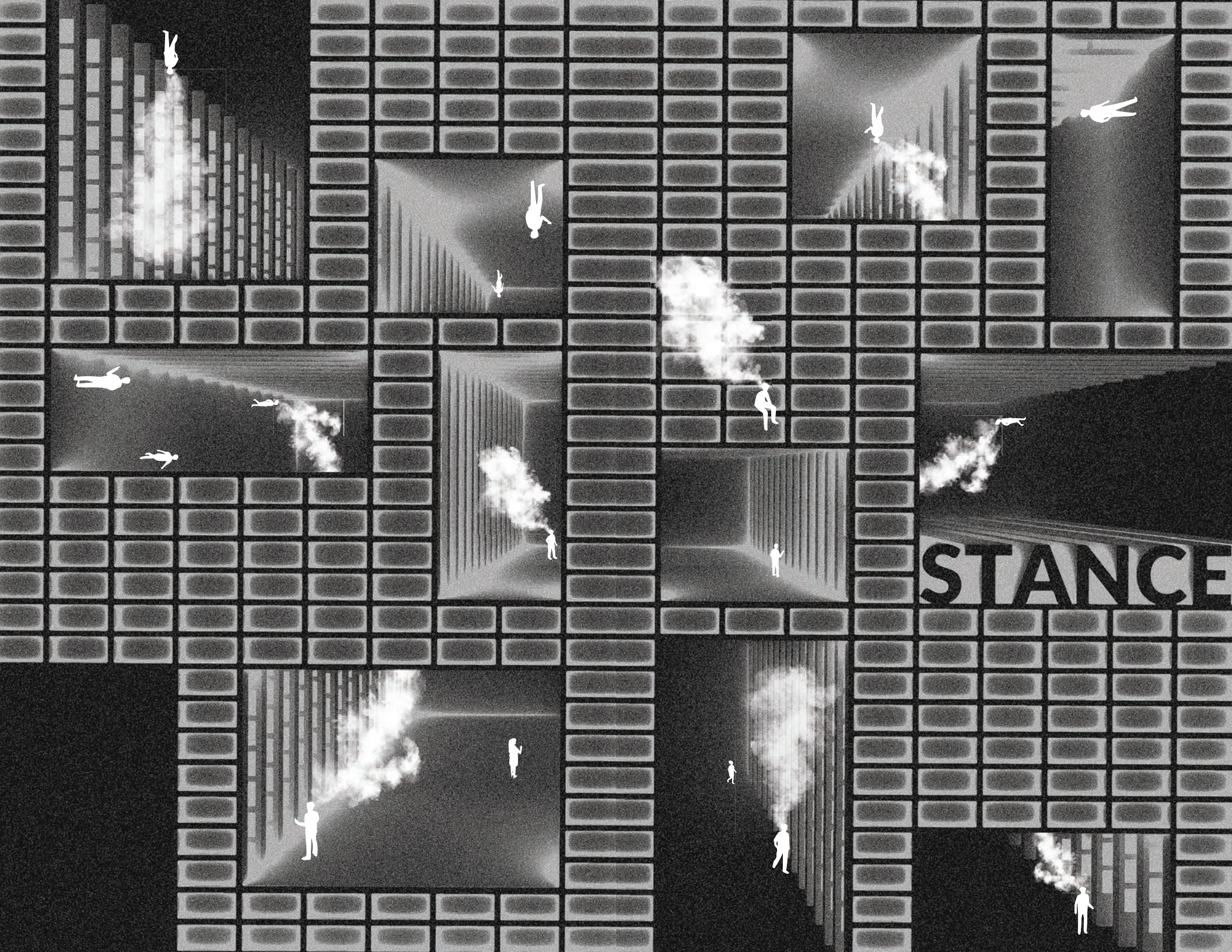
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Stance 16's cover pictures a never-ending maze with individuals roaming the path, each reaching a point of transcendence. In moments of questioning or reflection, each individual finds themselves surrounded by opportunities to discover what drives them and contemplate their STANCE. Inspired by "The Library of Babel," a short story by Jorge Luis Borges about a tower that contains every letter, story, and theory there ever was or will be, the cover represents the idea that our ability to seek knowledge is endless. Some may see this as a barrier, but we believe this should be seen as an opportunity. Too often we forget that we are in a world of unknowns. Our sense of wonder has been lost in a world of comfort and routine. The cover exemplifies the idea that while what we can accomplish in our lifetime is limited, we should never forget our sense of wonderment.

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SANJIAO HEYI AND TIBET: Resuscitating Buddhist and Daoist Perspectives



TY ROSSOW

ABSTRACT

This paper considers Chinese Communist Party policies in Tibet from Confucian, Daoist, and Buddhist perspectives. I first explain how these three traditions are unified in the *sanjiao heyi*, but I contend that this practice has been neglected in favor of state repression. I then elucidate Confucianism, Daoism, and Buddhism with respect to their general principles and application in Tibet. I conclude that a fuller embrace of the *sanjiao heyi* where Confucian tenets are balanced by insights from Daoism and Buddhism would cultivate an anti-oppressive response to governmental control.



I. INTRODUCTION

In this paper, I analyze the Chinese tradition of *sanjiao heyi*, “the unity of the three teachings” of Confucianism, Daoism, and Buddhism, in light of contemporary Chinese Communist Party (CCP) policies towards Tibet. Religion in Tibet functions as a tool of state control that must be disciplined when it steps out of line. Because the governing philosophy of Confucianism is conducive to CCP interests, Confucianism is elevated above Buddhist and Daoist teachings. I draw attention to Buddhist and Daoist critiques of CCP policy in Tibet as evidence. Finally, I argue that philosophical resources within Buddhist and Daoist traditions can provide an anti-oppressive response to Chinese occupation.

II. THE THREE TEACHINGS AND STATE CONTROL

Sanjiao heyi began in the Yuan Dynasty (1279–1368) and persisted as the Mongol rulers regarded the teachings of Confucianism, Daoism, and Buddhism as equally foreign.¹ All three teachings were equal in principle and availability, and worshippers could associate and interact with them in overlapping ways.² Common was the practice of joint worship, where deities from separate traditions were worshipped at the same religious site.³ For example, an early sixteenth century magistrate is recorded as promulgating an unpopular order in Yichuan County to remove statues of the Buddha and Lao-Tze that were being jointly worshipped alongside Confucius.⁴ As recently as the 1930s, a visitor from Japan expressed surprise at the presence of non-Buddhist deities in China’s Buddhist monasteries.⁵ It appears that for some time, the practice of multiple popular religions was normalized amongst ordinary Chinese.

The magistrate’s frustration at joint worship is illustrative of a broader state of anxiety towards *sanjiao heyi* that has permeated elite thought. Organically grown from below, *sanjiao heyi* stood in stark contrast to the cold state supervision of sanctioned religious traditions.⁶ Nineteenth century Confucian scholar Huang Yupian argued against *sanjiao heyi*, contending that only Confucianism provides a proper framework for

governance.⁷ Huang’s thesis reflects an underlying belief that religion should be controlled by and in service of the state. Such views may be traced to the Confucian philosopher Mencius, who argued that human beings have inherent dispositions to become good if expressed in a proper state.⁸ Mencius’s view of human nature added to Confucius’s concept of Ren, a trait that enables virtuous choices in every situation, by articulating an active role for the state in developing this trait. In contrast to the *sanjiao heyi*, Mencius provides an unquestioned role for the state in both moral and religious life.

After the triumph of the officially atheist Communist Party in 1949, state policy towards religion became increasingly hostile. From 1949–66, state policy focused on co-opting and then transforming official religions (Buddhism, Daoism, Islam, Protestantism, and Catholicism) through mandated registration with “patriotic associations.”⁹ These still-existing associations monitor religious organizations and ensure that they practice fealty to state dogma.¹⁰ Beginning in 1966, Mao launched the Cultural Revolution, and all religion was banned. Religious sites were officially closed, and many religious buildings, artifacts, and scriptures were destroyed.¹¹ After the pragmatic Deng Xiaoping assumed power in 1979, heavy-handed religious policies were partially relaxed. An edict of religious tolerance, known as Document No. 19, has served as the basis for Chinese religious policy since it was issued in 1982.¹² While the five official religions are legally recognized, they must participate in “patriotic associations” and may only proselytize in sanctioned premises.¹³ Additionally, only “normal” religious behaviors are protected, an ambiguous term whose meaning is arbitrarily enforced by bureaucratic officials.¹⁴ Given the historic submission of religion to the Chinese state, religious activities are likely to be interpreted as abnormal insofar as they are perceived as resisting CCP rule.

1 Timothy Brook, “Rethinking Syncretism: The Unity of the Three Teachings and their Joint Worship in Late-Imperial China,” *Journal of Chinese Religions* 21, no. 1 (1993): 13–44, 10.1179/073776993805307448.

2 Brook, “Rethinking Syncretism,” 15.

3 Brook, “Rethinking Syncretism,” 27.

4 Brook, “Rethinking Syncretism,” 29.

5 Brook, “Rethinking Syncretism,” 28.

6 Brook, “Rethinking Syncretism,” 33.

7 Brook, “Rethinking Syncretism,” 26.

8 John M. Koller and Patricia Koller, *Sourcebook in Asian Philosophy* (Hoboken: Prentice-Hall, 1991), 477–87.

9 Fenggang Yang, “Regulating Religion under Communism,” in *Religion in China: Survival and Revival under Communist Rule* (Oxford: Oxford University Press, 2011), 65–84.

10 Patrick Poon, “Controlling Religions with Chinese Characteristics,” *Berkley Center for Religion, Peace & World Affairs*, March 16, 2020. <https://berkeleycenter.georgetown.edu/responses/controlling-religions-with-chinese-characteristics>.

11 Yang, “Regulation Religion,” 65–84.

12 Yang, “Regulation Religion,” 65–84.

13 Yang, “Regulation Religion,” 65–84.

14 Yang, “Regulation Religion,” 65–84.



III. TIBET: A CASE STUDY

Tibet is a classic case study of Document No. 19 in practice. Tibet has a long history of autonomy from China, with boundaries first demarcated in the eighth century CE.¹⁵ Over time, the term Tibetan (*bod pa*) evolved from naming Central Tibetans to those “of all regions” of Tibet, to describe “a territorially based political unit.”¹⁶ In the modern era, Britain helped secure Tibet’s de facto independence from 1911 onwards in order to create a buffer state between the British Raj and Russia.¹⁷ While Chinese leaders use this example to portray Tibet as a product of foreign imperialism, the CCP’s 1931 constitution recognized self-determination for national minorities such as Tibetans.¹⁸ In fact, the CCP continues to recognize Tibet as the “Tibet Autonomous Region,” and its area is virtually identical to the area claimed by the Tibetan Government-in-Exile.¹⁹ These facts point to a long tradition of autonomy for Tibet and the Tibetan Buddhist tradition, which place the Dalai Lama at the center.

In practice, Tibetan religious activities continue to be suppressed for failing to meet the CCP’s standards of normalcy. Chinese authorities have expelled Tibetan Buddhist monks from monasteries, demolished dwellings, and forcibly imposed “re-education” measures.²⁰ In addition, the CCP has subjected monks to “legal” exams for political re-education and requires senior religious leaders to endorse government policies on the Dalai Lama’s selection.²¹ Wang Yang, a former member of China’s powerful Politburo Standing Committee, has claimed that Tibetans ought to embrace the “cultural symbols and images of the Chinese nation.”²² Wang’s words reflect the belief that Tibetan Buddhism should be regulated by the Chinese state. As head of religion and state, the Dalai Lama’s presence as Tibetan leader challenges longstanding Chinese views of religion.²³ Under Document No. 19, we should expect Tibetan religious activities to be considered “abnormal” and therefore subject to state discipline.

15 Åshild Kolås, “Tibetan Nationalism: The Politics of Religion,” *Journal of Peace Research* 33, no. 1 (1996): 51–66.

16 Kolås, “Tibetan Nationalism,” 52.

17 Ben Hales, “The Tangled History of the ‘Tibet Card,’” *The Diplomat*, August 13, 2020, <https://thediplomat.com/2020/08/the-tangled-history-of-the-tibet-card/>.

18 Hales, “Tangled History.”

19 Kolås, “Tibetan Nationalism,” 52.

20 Human Rights Watch, “China: Events of 2019,” *World Report 2020*, <https://www.hrw.org/world-report/2020/country-chapters/china>.

21 Human Rights Watch, “China.”

22 Helen Davidson, “Embrace Communist rule, China tells Tibet on 70th anniversary of invasion,” *The Guardian*, August 20, 2021, <https://www.theguardian.com/world/2021/aug/20/embrace-communist-rule-china-tells-tibet-at-70th-anniversary-of-invasion>.

23 Kolås, “Tibetan Nationalism,” 53.

In the remainder of the paper, I articulate how Confucianism has been privileged and deployed to subjugate Tibet. I will also argue that a more inclusive understanding of *sanjiao heyi* offers a philosophical rebuttal to CCP practices. Specifically, I claim that in repressing Tibetan Buddhism, the CCP has willfully ignored the longstanding *sanjiao heyi* tradition at worst and unfairly privileged the governing philosophy of Confucianism at best. To demonstrate this unequal deployment of religious ideology, I will explain Confucianism, Daoism, and Buddhism with respect to their general principles and then analyze their role in Tibet. I will argue for Buddhism and Daoism as alternative governing philosophies that can generate an anti-oppressive response to CCP practices. Shoring up Buddhist and Daoist resources, which would deviate from longstanding Chinese practice, offers genuine hope for the survival of a truly autonomous Tibetan Buddhism.

IV. CONFUCIANISM

Confucianism argues that the world, made of heaven-earth-humans, is governed by *dao*, or “the way,” in perfect harmony. When the world acts naturally as itself, it is perfect. However, the *dao* is often violated by human beings. As heaven and earth always exist in harmony, we know that when things go wrong, humans have violated *dao*.

Confucius responded to this problem with moral education intended to restore the universe to its moral harmony. Just as stars and planets are virtuous entities, never leaving their proper way, humans should also become virtuous elements of the universe by following *dao*. To accomplish this, each person should become a gentleman or gentlewoman, one who has all the virtues. The primary virtue among these is *yen* or *ren*, a trait that enables one to follow the correct course in every situation.

Mencius refined this philosophy to account for human nature. Mencius noticed that many prosperous people do not observe *dao*, but the unsuccessful do. As such, it was not clear that Confucianism alone generates moral behavior. Mencius argued that Confucian virtues, to flourish, must be developed in the proper society. In a proper state, humans can become gentle; in the wrong state, they remain animals. Consider the famous cups and bowls passage:

Kao Tzu said, “Human nature is like the ch’i willow. Dutifulness is like cups and bowls. To make morality out of human nature is like making cups and bowls out of the willow.” “Can you,” said Mencius, “make cups and bowls by following the nature of the willow? Or must you mutilate the willow before you can make it



into cups and bowls? If you have to mutilate the willow to make it into cups and bowls, must you, then, also mutilate a man to make him moral? Surely it will be these words of yours men in the world will follow in bringing disaster upon morality.”²⁴

Mencius is not arguing that humans are inherently good, but that they have inherent dispositions to become good. Just as a willow tree mutilated into cups and bowls is no longer a willow, a human mutilated to be good is no longer a human. So, if a human can become good, they are already good. A proper state can therefore develop human capacities for Confucian virtue.

These ideas have been distorted within the CCP. Amongst officials concerned with China’s national rejuvenation, a political Confucianism has emerged that suggests Confucianism should serve as a state philosophy with unelected Confucians governing the country.²⁵ Xi Jinping has called Confucianism “the cultural soil that nourishes the Chinese people.”²⁶ Endorsing societal harmony and respect for authority, Confucianism is now a powerful tool for a CCP seeking to maintain its power.²⁷ The concept of *ren*, translated as love, benevolence, compassion, humanity, and man-to-man-ness, is duty-based, and stresses our obligations to others, families, and communities.²⁸ From a governmental perspective, it implies a paternalistic duty to care for the weak and poor.²⁹ In Tibet, Chinese leaders have emphasized poverty and weakness to justify paternalistic policies. The Chinese-appointed regional governor of Tibet has justified Chinese rule by stressing education, housing, and employment gains in Tibet, claiming that Tibet “leapt forward several thousand years.”³⁰

24 Koller and Koller, *Sourcebook*, 477–87.

25 Yi-Huah Jiang, “Confucian Political Theory in Contemporary China,” *Annual Review of Political Science* 21 (2018), 10.1146/annurev-polisci-041916-020230.

26 “How did Confucianism win back the Chinese Communist Party?” *The Economist*, June 23, 2021, <https://www.economist.com/the-economist-explains/2021/06/23/how-did-confucianism-win-back-the-chinese-communist-party>.

27 “How did Confucianism,” *The Economist*. One historical challenge to this argument is that despite Mao’s distaste for Confucianism, the CCP invaded Tibet in 1949. As always, events have multiple complex causes, and the CCP’s embrace of Confucianism may account for its approach towards Tibet more today than in the past.

28 Baogang He, “Minority Rights: A Confucian Critique of Kymlicka’s Theory of Nonassimilation,” In *The Moral Circle and the Self: Chinese and Western Approaches*, ed. Kim Chong Chong, Sor-Hoon Tan, and C. L. Ten (Chicago: Open Court, 2003), 219–45.

29 He, “Minority Rights,” 234.

30 Michael Martina, “China says 60 years of development saved Tibet from feudalism,” *Reuters*, May 19, 2011, <https://www.reuters.com/article/us-china-tibet/china-says-60-years-of-development-saved-tibet-from-feudalism-idUSTRE74I31T20110519>.

Whether true or false, these claims disempower the Tibetan people by assuming that their development is only possible under Chinese domination. Because Confucianism lacks concepts of rights and regional self-determination, CCP leaders may find it difficult to imagine a world where Tibet develops itself.³¹ Without the inclusion of concepts like autonomy, Confucianism is easily distorted to serve the CCP’s ends.

The central pillars of traditional Confucianism, the extended family and the state, have all likewise been hijacked such that “the history of Confucianism is a tale of powerful central states repeatedly appropriating key Confucian tenets for state ends.”³² Xi Jinping, for instance, has stressed that filial piety and national loyalty are some of the finest Chinese traditions.³³ All in the name of national loyalty, preceding the 70th anniversary of the founding of the People’s Republic of China, the CCP forced monks to sing songs praising the Party, ordinary citizens to hang pictures of leaders on their walls, and Tibetans to attend events promoting the government.³⁴ These practices do a disservice to Tibetans and to ordinary Chinese Confucians who have their religious practices compromised by cynical leaders.³⁵

My claim is not that Confucianism is responsible for the oppression of Tibetans. Confucius, upon being asked how to best serve a prince, replied that one should “Tell him the truth even if it offends him.”³⁶ And Mencius claimed that “The people are the most valuable element in a nation; the Gods of the land and grain are the next; the ruler is the least.”³⁷ Without Daoism’s emphasis on authenticity and Tibetan Buddhism’s concept of interdependence, these remarks can be easily ignored in favor of a politicized Confucianism. As I will explain below, the other pillars of the *sanjiao heyi* may provide an important corrective.

31 He, “Minority Rights,” 234.

32 Hahm Chaibong, “The Ironies of Confucianism,” *Journal of Democracy* 15, no. 3 (Johns Hopkins University Press, 2004): 93–107.

33 “Quotable Quotes: Xi Jinping on love for family, country,” *China Daily*, February 15, 2022, <https://www.chinadaily.com.cn/a/20220215/WS620b0f98a310cdd39bc86b0d.html>.

34 Yangdon Demo, “Tibetans Forced to Show ‘Loyalty’ in Run-up to China’s National Day,” trans. Richard Finney, *Radio Free Asia*, September 26, 2019, <https://www.rfa.org/english/news/tibet/loyalty-09262019160150.html>.

35 As Amartya Sen points out, loyalty to family and loyalty to the state can come into conflict. I would suggest that Tibet is one case of this. Amartya Sen, *Development as Freedom* (New York: Anchor Books, 2000): 235.

36 36 Sen, *Development*, 234–5

37 Liang Tao, “Political Thought in Early Confucianism,” *Frontiers of Philosophy in China* 5, no. 2 (2010): 212–36.



V. DAOISM

Like Confucianism, Daoism concurs that the universe is governed by *dao* and that we should live according to *dao*. However, the crucial difference is that Daoism says we should live directly according to *dao*. In each human, there is an authentic expression of *dao*. Just as a fish should never be a bird nor a bird a fish, each person should stay true to themselves. By discovering one's authentic identity and living accordingly, one lives according to *dao*.

Daoism may be used to formulate a strong critique of the CCP's Tibet policy. In the *Tao Te Ching*, the most important Daoist text, there is a refusal of outside mediation that stands in contrast to Confucian thought. Whereas Mencius envisioned the state as the cultivator of virtue, the *Tao Te Ching* calls for discovering one's authentic identity and living accordingly without mediation. Living according to simplicity and one's true self is referred to as *wu wei*, meaning non-acting.

State imposition of Confucian virtues, as in Tibet, contravenes Daoism. Since entrance to *dao* for Tibetans is mediated by politics, the CCP is creating a false image of *dao* rather than the thing itself. Instead of intervening to develop virtue, the CCP ought to remain invisible according to Daoist thought. As the following *Tao Te Ching* passage notes:

The best of all rulers is but a shadowy presence to his subjects.

Next comes the ruler they love and praise;

Next comes one they fear

Last comes one they treat with impertinence.

Only when there is not enough faith is there a lack of faith.

Hesitant, he does not utter words lightly.

When his task is accomplished and his work done

The people all say, "It happened to us naturally."³⁸

With a ruler that is a shadowy presence, the *dao* may function without oppressive interference. Instead of attempting to assimilate Tibet, a Daoist might argue that China should let Tibetans live according to their natural abilities. Chinese and Tibetans may still interact, but in each interaction one's authentic *dao* would be respected, and interactions would be mutually beneficial. This is the essence of *wu wei*.

One compelling objection might hold that Daoism cannot generate political action. If *wu wei* is truly followed, then political leaders and political subjects ought to do nothing.³⁹ For this reason, many scholars

take the view that Daoism is "supremely anarchistic."⁴⁰ Yet this argument lacks empirical or textual basis. Empirically, Daoists have participated in government, advised emperors, and remained a significant bloc in Chinese politics for over two thousand years.⁴¹ During the Han dynasty, Daoists actively engaged in politics to develop a political Huang-Lao Daoism, a process we would not expect if Daoism was inherently anarchistic. Textually, the *Tao Te Ching* contains at least forty chapters of a political nature and explicitly considers *wu wei* politically at least six times. In the passage quoted in the preceding paragraph, there is never a rejection of the state.⁴² The text could have claimed the best ruler does not exist, but rather, it simply advocates minimal government interference. Using history and the text as guides, Daoism can and should generate a political response to the CCP in Tibet.

VI. BUDDHISM

There are many varieties of Buddhism, but their "essential unity" lies in the belief that Siddhartha Gautama (the Buddha) articulated a path from the world of suffering to liberation in the wisdom beyond.⁴³ The human condition, in Buddhist terms, is one where "ignorance and craving are the substratum of the empirical life."⁴⁴ The suffering the Buddha perceived was not physical suffering, but suffering from ignorance, or *avidya*. Failing to realize that we are merely an atomistic bundle of parts, or dharmas, experiencing momentary existence, we crave a sense of security in a world that is fundamentally insecure.

Buddhism offers nirvana, where we abandon our illusory desires, as an alternative. One who reached nirvana would not crave youthfulness or health, for instance, because these are illusory states that we can never reach in a world of constantly changing dharmas. Achieving nirvana ultimately means to "experience the nothingness, the void of the world to get beyond it."⁴⁵ Naturally, this is difficult. Help is available from Bodhisattvas, those who have nearly obtained total nirvana but remain to help other humans obtain nirvana. *The Heart Sutra* expresses eloquent admiration for Bodhisattvas, writing that:

of the Laozi," *Dao* 9, no. 3 (2010): 323–37.

40 Feldt, "Governing Through the Dao," 324.

41 Feldt, "Governing Through the Dao," 327.

42 Feldt, "Governing Through the Dao," 328.

43 Sarvepalli Radhakrishnan, "Foreword," in *2500 Years of Buddhism*, ed. P.V. Bapat (New Delhi: Publications Division, Government of India, 1956), v–xxiv.

44 Radhakrishnan, "Foreword," ix.

45 Radhakrishnan, "Foreword," xii.

38 Koller and Koller, *Sourcebook*, 445–50.

39 Alex Feldt, "Governing Through the Dao: A Non-Anarchistic Interpretation



Therefore, Sariputra, because Bodhisattvas have no attainment, they depend on and abide in the perfection of wisdom; because their minds are without obstructions, they are without fear. Having completely passed beyond all error they go to the completion of nirvana. All the Buddhas who abide in the three times have been fully awakened into unsurpassed, perfect, complete enlightenment through relying on the perfection of wisdom.⁴⁶

The central point is that Bodhisattvas are non-craving. Aware that they are nothing, they achieve complete enlightenment. Within Tibetan Buddhism, the tradition I will consider, the most important Bodhisattva is the Dalai Lama. The Dalai Lama's views are central to any discussion of Tibet.

Since the seventeenth century, the Dalai Lama has served as the spiritual and political leader of Tibetan society.⁴⁷ Because Tibetan Buddhism confounds the distinction between sacred and secular or spiritual and temporal, it may be used to generate alternative responses to political challenges.⁴⁸ The Dalai Lama's most famous political proposal, the Five Point Peace Plan, calls for:

1. Transformation of Tibet into a peace zone
2. Abandoning China's population transfer policy
3. Respect for the fundamental human rights and democratic freedoms of Tibetans
4. Restoration and protection of Tibet's natural environment, including the abandonment of Tibet as a zone for nuclear weapons production and waste dumping
5. Earnest negotiations on Tibetan-Chinese relations and Tibet's future⁴⁹

The Dalai Lama defends this plan by arguing that in an "increasingly interdependent" world, peace "can only be achieved if we think in terms of broader interest rather than parochial need."⁵⁰ As I will show below, this philosophy of interdependence is deeply rooted in Buddhist philosophy.

Fundamental to Buddhism is the view that "every functioning thing we perceive arises (and ceases) in dependence on its causes and

conditions, its parts, and the minds that perceive it."⁵¹ Since dharmas are merely sense-and-data-giving impressions, existence is momentary because dharmas are constantly changing. The implication is that reality, including the self, has no essential nature because it can be broken down into simpler dharmas. As such, any distinction between self and others or subjects and objects is merely artificial. All matter, including human individuals, can be broken down into dharmas that are constantly interacting.

As such, any perceived distinction between China and Tibet is false. China and Tibet, and Chinese and Tibetan people, exist in a networked reality that cannot be broken by CCP policy. By attempting to subjugate Tibetans and refusing negotiations, the CCP perpetuates an illusory separation between China and Tibet. Under a Buddhist philosophy of interdependence, the CCP would be compelled to recognize inextricable linkages between China and Tibet and attempt to live peacefully to create a more just society for all.

Against this perspective, one might argue that using Daoism and Buddhism to critique the CCP is incoherent. Whereas Daoism stresses authentic expression of *dao*, a Buddhist philosopher might argue that authenticity is only momentary, and thus, an illusion. This is a difficult objection, for it implies that the two cannot stand together in the *sanjiao heyi*. Addressing it requires clarification of the Buddhist position. The Heart Sutra states that, "all phenomena in their own-being are empty," not that "all phenomena are empty."⁵² This distinction is critical because it implies interdependence rather than nonexistence.⁵³ Daoist thinkers have corroborated this perspective, viewing *dao* as an interdependent existence of body, community/environment, and the cosmos.⁵⁴ In fact, some viewed Buddhism as an Indian version of Daoism when it was first introduced in China, and dharma was often translated as *dao*.⁵⁵ It is therefore possible to reconcile a Daoist emphasis on authenticity with the Buddhist attention to the fragility and interdependence of the human condition.

51 William J. Long, "Radical Interdependence: Buddhist Philosophical Foundations for Social Theory," in *A Buddhist Approach to International Relations* (New York: Springer International Publishing, 2021), 19–33.

52 Lee Clarke, "Dharma and the Tao: how Buddhism and Daoism have influenced each other; Why Zen and Taoism can be complementary," *Buddha Weekly*, <https://buddhaweekly.com/dharma-and-the-tao-how-buddhism-and-daoism-have-influenced-each-other-why-zen-and-taoism-can-be-complementary/>.

53 Clarke, "Dharma and the Tao."

54 Darla Schumm and Michael Stolz, "Beyond Models: Some Tentative Daoist Contributions to Disability Studies," *Disability Studies Quarterly* 30, no. 3/4 (2010).

55 Clarke, "Dharma and the Tao."

46 Koller and Koller, *Sourcebook*, 253–57.

47 José Ignacio Cabezón, "Buddhist principles in the Tibetan liberation movement," in *Engaged Buddhism: Buddhist Liberation Movements in Asia*, ed. Christopher S. Queen and Sallie B. King (Albany: State University of New York Press, 1996), 295–320.

48 Kolås, "Tibet Nationalism," 52.

49 Cabezón, "Buddhist Principles," 298.

50 Cabezón, "Buddhist Principles," 301.



VII. CONCLUSION

In this paper, I posited that China's approach towards Tibet has ignored the longstanding *sanjiao heyi* tradition. Instead of crafting policy based on input from all three teachings, Xi's CCP has privileged a particular interpretation of Confucianism that legitimates political authoritarianism. To resuscitate the *sanjiao heyi*, I introduced anti-authoritarian Daoist and Buddhist beliefs. Because the optimal Daoist ruler is but a shadowy presence, Daoism resists imposition of Confucian virtues on Tibet. Buddhism contains a philosophy of interdependence which is expressed in the Dalai Lama's Five Point Peace Plan.

Taken together, these three philosophies provide an important corrective to the CCP's interpretation of Confucianism. By focusing on social harmony within the state, the CCP has lost sight of individual authenticity and the interdependencies of peoples. Through their insistence on *wu wei* and momentary existence, respectively, Daoism and Buddhism remind us that individuals also matter, but we should not assume that any individual or state has permanence. With this acknowledgement of fragility embedded within social harmony, the *sanjiao heyi* may provide a superior path to peace.



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ADDRESSING CRIMES OF PASSION WITH THE DEEP-SELF VIEW OF MORAL RESPONSIBILITY



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ABSTRACT

In this paper, I summarize and object to the “deep-self” view of moral responsibility as laid out by Susan Wolf in “Sanity and the Metaphysics of Responsibility.” My objection centers on how our intuitions regarding crimes of passion conflict with the conclusions drawn by the deep-self view. I then proceed to sketch out three possible responses which can be made by an adherent to the deep-self view and make my recommendations on how such adherents should proceed in further understanding moral responsibility.



I. INTRODUCTION

In her paper, “Sanity and the Metaphysics of Responsibility,” Susan Wolf draws similarities between multiple prominent theories of moral responsibility in the twentieth century. From these connections, she devises what she calls the “deep-self” view of moral responsibility. What unites these views is the intuition that we are morally responsible for our actions, both that are willfully caused by us, and that intentionally flow from some more fundamental part of ourselves.¹ In this paper, I sketch out some of the historical manifestations of the deep-self view from which Wolf draws, present a new objection regarding crimes of passion that is not discussed in Wolf’s paper, discuss three possible responses to this objection, and outline future work to be done on clarifying and formulating the deep-self view of moral responsibility.

II. CRIMES OF PASSION AND THEIR NATURE

Before continuing in the discussion of crimes of passion, it is important to make some clarifications about their nature, as well as the nature of responsibility. By crime of passion, I am referring to any socially undesirable behavior done without premeditation and motivated by intense emotion, particularly one that may be described as uncharacteristic, regardless of scale; this can range from something as extreme as murder or assault to something far more mundane, such as cheating on a partner. While often used in a legal context, I will be discussing crimes of passion in terms of a moral responsibility rather than a legal one. Robin Zheng, in her discussion of implicit bias, describes this responsibility as the distinction between attributability (being an expression of agency and inviting praise or blame) and accountability (being responsible for the social ramifications).² I refer to the former when I invoke moral responsibility. Zheng’s discussion of attributability is similar to Wolf’s discussion of the deep-self, insofar as she discusses an action where one can be held morally (rather than merely legally or socially) responsible as they are “distinctively subject to self-reflective awareness.”³ An example Zheng gives of this distinction is of a car crash: someone can accidentally cause damage to another person’s car, and

while they would not be blamed for this accident, they would still be financially responsible for the damages.⁴

III. VERSIONS OF THE DEEP-SELF VIEW

Returning to the deep-self views of moral responsibility, under Harry Frankfurt’s view, moral responsibility requires more than freedom from external coercion.⁵ What is needed for moral responsibility is for one’s actions to align with their second-order desires—often phrased as what one “wants to want” and what Frankfurt freely calls “willing.”⁶ These desires of the second order are in contrast to the first-order desires of merely wanting something.⁷ Moral responsibility, according to Frankfurt, derives from the fact that humans care about their desires. If someone both wants to want X and wants X, then they are responsible for X; but if someone wants X but wishes they do not want X, then they are not responsible for X. Frankfurt uses an “unwilling addict” as an example to elucidate this principle. The unwilling addict simultaneously wants and does not want to take the drug. What is critical is that the unwilling addict is not neutral between these two desires—they want to not want to take the drug.⁸ Because of this second-order desire to not take the drug, the unwilling addict cannot be considered morally culpable when they are physiologically compelled to indulge their addiction, as one can only be held responsible for acting in accordance with one’s second-order desires.⁹

Gary Watson’s view is similar. Rather than discussing first and second-order desires, he categorizes our desires into “mere” desires, ones we are stuck with as a consequence of being an organic being thrown into the world, and values, which express some deliberative judgment.¹⁰ For example, while someone may have an inborn desire for hedonistic pleasures, they might also have a value for managing and limiting their indulgent behaviors. Subsequently, according to Watson, this person is morally culpable for the actions that proceed from evaluations.

Charles Taylor, quite similarly, argues that what makes humans free agents is the ability to reflect upon themselves.¹¹ He suggests that if one’s character were beyond their control (determined by an outside force

1 Susan Wolf, “Sanity and the Metaphysics of Responsibility,” in *Responsibility, Character, and the Emotions: New Essays in Moral Psychology*, ed. Ferdinand Schoeman (Cambridge: Cambridge University Press, 1988), 49.

2 Robin Zheng, “Attributability, Accountability, and Implicit Bias,” in *Implicit Bias and Philosophy, Volume 2: Moral Responsibility, Structural Injustice, and Ethics*, ed. Michael Brownstein and Jennifer Saul (Cambridge: Cambridge University Press, 2016), 62–3.

3 Zheng, “Implicit Bias,” 64.

4 Zheng, “Implicit Bias,” 66.

5 Harry Frankfurt, “Freedom of the Will and the Concept of a Person,” *Journal of Philosophy* 68, no. 1 (1971): 14.

6 Frankfurt, “Freedom of the Will,” 6.

7 Frankfurt, “Freedom of the Will,” 6.

8 Frankfurt, “Freedom of the Will,” 12.

9 Frankfurt, “Freedom of the Will,” 12.

10 Gary Watson, “Free Agency,” *The Journal of Philosophy* 72, no. 8 (1975): 208–9.

11 Wolf, “Metaphysics of Responsibility,” 49.



such as a deity and thus wholly untouchable), then one would be a mere vehicle for causal forces.¹² According to Taylor, one can recognize their current character and ideals, thereby making their own flaws apparent. Subsequently, one can resist their natural inclinations and cultivate new habits, such as changing their environment. Due to these capacities, Taylor suggests that humans are free moral agents.¹³

All three of these deep-self views hinge on an individual's capacity to reflect on their own character.¹⁴ Each is guided by the insight that, in terms of moral responsibility, it is insufficient that one is merely the cause of their actions, but that one's actions are, in some sense, an expression of their character. These deep-self views explain why kleptomaniacs and victims of brainwashing are not morally responsible for their actions, as well as why adult humans are morally responsible, but animals and infants are not. All of these actors—even if they can act freely, as Frankfurt would put it—lack the requisite faculties to be held morally responsible: the second-order desires, the ability to follow their desires, the ability to deliberate and generate values, or the capacity for self-revision and self-reflection. While these views do not assuage all of the deterministic fears of metaphysical responsibility, they do establish “all the freedom it is possible to desire or to conceive.”¹⁵ Wolf uses her paper to address the issue that all of these theories assume that metacognition is not a value-neutral endeavor. However, there is another flaw that even her sane deep-self view shares with its predecessors.

IV. TENSION BETWEEN THE DEEP-SELF VIEW AND CRIMES OF PASSION

The deep-self views struggle to account for crimes of passion. Under any conception of the deep-self view, it does not seem reasonable to hold someone responsible for a crime of passion. If we were to use Watson's version, a crime of passion would be considered a mere desire that one is stuck with, rather than a desire that flows from one's values. Similarly, under Frankfurt's framework, it is reasonable to think of a crime of passion as an action performed by an individual lacking second-order desires, or the capacity to obey such desires.¹⁶ In either case, they are a being that is not morally responsible. Following Taylor's theory that someone who acts spontaneously does not have the opportunity to reflect and thus cannot be held responsible, a crime of passion is not

12 Wolf, “Metaphysics of Responsibility,” 49.

13 Wolf, “Metaphysics of Responsibility,” 49.

14 Wolf, “Metaphysics of Responsibility,” 49.

15 Frankfurt, “Freedom of the Will,” 17.

16 Frankfurt, “Freedom of the Will,” 11.

an action for which one can be held accountable. This may seem like an unacceptable conclusion. It does not seem reasonable to say that someone who loses their temper and hurts someone else is not morally responsible simply because “they were not thinking straight” or that “it was not really them.”

I see three possible responses to this objection: we may throw out the deep-self view entirely, we may accept that one cannot be responsible for crimes of passion, or we must find a way to reconcile crimes of passion with the deep-self view. It is the last of these that I want to focus on, as I do not wish to abandon the project of moral responsibility, yet I believe that concluding that one cannot be responsible for crimes of passion is an unacceptable conclusion about the narrowness of moral responsibility. First, I would like to share a few thoughts on the first two options. In favor of rejecting the deep-self view, we may question the grounds on which we ontologically privilege “deep” desires over “mere” desires. We may feel compelled to reject the deep-self view as a false anthropology—perhaps a vestige of soul theory—in favor of a more Nietzschean view: that man is an assemblage of competing drives without a privileged ego-consciousness, where no part of the self is more core than any other.¹⁷ On this view, we could say we are responsible for all of our drives, or we could say that we are responsible for none of our drives. The key is that we abolish the hierarchy according to which some drives are more core to our identities than others. A proponent of this view might say that it is conceited of us to think that deliberative actions are any more an expression of ourselves than impulsive ones and might be disinterested in any post-hoc rationalizations that could be offered to explain why one is not actually responsible for the drives of which they disapprove.

Coming to an agreement that one cannot be held morally responsible for crimes of passion is another possible response, where one cannot be held morally responsible, only legally responsible.¹⁸ One could consider a crime of passion as analogous to temporary insanity, putting it among the ranks of other “excusing conditions,” such as acting unintentionally, under coercion or with an altered state of mind.¹⁹ While plausible, I believe that this position renders the scope of moral responsibility too narrow and that a rush of emotion should not be considered an “altered state of mind” comparable to the effects of drugs.

Our final option is then to attempt to reconcile these conflicting intuitions. On the one hand, we are only responsible for things that flow

17 Friedrich Nietzsche. *Human, All Too Human*, trans. Helen Zimmern (Edinburgh: T. N. Foulis, 1910), 107.

18 Zheng, “Implicit Bias,” 64.

19 Zheng, “Implicit Bias,” 65.



from our deep-self, and on the other, we are responsible for actions we perform on a whim. I will attempt to reestablish moral responsibility for momentary outbursts by reflecting on the nature of metacognition and introducing some cognitive science. According to the psychological model of the dual-processing theory of cognition, we have two manners in which we make decisions. System 1 thinking is intuitive.²⁰ It is fast, automatic, emotional, and subconscious. This is also the system employed during crimes of passion. System 2 thinking, by contrast, is deliberative.²¹ It is slow, logical, and methodical. There are clear parallels here to Watson's position that one is responsible for deliberations, but not mere desires. When advocates of various deep-self views conceptualized moral responsibility, this is largely the thought process they had in mind. It is easy to see how one could be responsible for something they spend significant amounts of time reflecting on and deliberating, but it is less clear where the responsibility lies in System 1.

V. RECONCILING RESPONSIBILITY WITH INTUITION

One way we may go about reconciling the deep-self view with crimes of passion is by establishing a duty to "think straight." We may imagine someone who was caught cheating telling their partner that they were not "thinking straight." To this, the partner could respond, "Well, you should have been thinking straight." If we could establish a duty to "have been thinking straight," we may be able to resolve this issue of moral responsibility. But does such a duty exist? Is one morally required to engage their System 2 processing at specific times? We may agree with the cheated-on partner that there is some duty to think straight, but there are some problems with trying to establish such a duty from the original position that one is responsible only for their deliberations. A duty to think straight would entail an imperative way to know when to use System 2 thinking. This way, we could maintain that someone is not responsible for their immediate intuitions, but instead argue that they are only responsible for knowing when to override their intuitions and think deliberately.

The primary concern with such a duty is that the overwhelming majority of one's thinking is preconscious, or System 1 thinking. Object perception, immediate effect, and language generation, just to name a few, are all examples of your brain on autopilot. More importantly, knowing when and where not to engage System 2 thinking is a System 1 faculty. That is to say, knowing when to deliberate is an intuitive decision.

20 Jonathan St B.T. Evans, "In Two Minds: Dual-Process Accounts of Reasoning," *Trends in Cognitive Sciences* 7, no. 10 (2003): 454.

21 Evans, "In Two Minds," 454.

To say that we are responsible for knowing when to deliberate violates our original premise that we are only responsible for our deliberative thought processes. This is not to say that there is not a duty to think straight, it is merely to say that such a duty cannot be derived from our original deep-self view.

This means that if one is responsible for crimes of passion, there must be times (though preferably not all times, lest we lose the explanatory power of the deep-self view entirely) when they can be held responsible for their intuitive thinking. I previously mentioned that, according to Wolf, the guiding intuition of the deep-self view is that in order to be morally responsible for an action, one is not merely the cause of such an action, but such an action is an expression of one's deep-self. For one to be responsible for crimes of passion, there must be times when intuitive thought processes are expressions of character, and thus something for which one can be held responsible. I believe this to be the case. As Taylor points out, we are capable of reflecting upon and revising our character.²² Metacognition is a necessary factor in moral responsibility. While it is true that System 1 thinking is intuitive and subconscious, that does not mean it exists separately from our characters. A good analogy would be to compare System 1 to wearing glasses and System 2 to taking off and inspecting those glasses. Through inspecting your glasses, you can clean them, change the tint, replace the lenses, etc. Analogously, through metacognition, one internalizes one's beliefs and modifies one's own cognitive machinery. Because of this, deep-self is integrated into subconscious actions. Therefore, automated actions are a (partial) reflection of one's deep-self. An example to elucidate this is to consider psychoanalysis (which sought to understand the unconscious through free association), Freudian slips, dream analysis, etc. If we accept that the unconscious or intuitive mind is not an expression of character, then we would also be forced to accept that the entire psychoanalytic project is somewhere between misguided and absurd for looking at something completely distinct from one's character.

VI. THE COST OF RECONCILIATION

There is one immediate objection I would like to address, and through doing so I would like to outline possible future work on the deep-self view. The objection is that the reconciliation of the deep-self view with crimes of passion proves too much. A significant part of the elegance of the deep-self view is that it makes a distinction, according to which we are not responsible for transient or peripheral actions but

22 Wolf, "Metaphysics of Responsibility," 49.



only ones which, in a more fundamental sense, express our character or deep-self. However, by arguing that we are sometimes responsible for our intuitive processes, I have flattened the distinction between the deep and shallow-self, and therefore I have eliminated the deep-self view.

There are a few possible ways of responding to this concern, and I will touch on each of them. First, a more moderate version of Watson's original claim (that deliberation, not intuition, expresses character) could be made. Instead, we could say that deliberation provides a more direct access to character whereas intuitions provide indirect access, and thus the responsibility is tempered, maintaining the deep/shallow-self hierarchy. Alternatively, we could take refuge in the fact that we maintain one of the original deep-self intuitions that children, animals, kleptomaniacs, people subject to hypnosis or brainwashing, etc., are not morally responsible. This is because their cognitive machinery has been infected or co-opted by some outside force, or is merely underdeveloped, resulting in their actions not being an expression of character.

To demonstrate this distinction, I will return to Frankfurt's earlier example of the unwilling addict. Suppose once more that there is an unwilling addict with a physiological compulsion to a particular substance. When presented with such a drug, they only perceive one option: consumption. As outside agents, we know there are plenty of other options, but as their world is perceived, the addict is left with only one option. Subsequently, they cannot be faulted for not taking some other course of action, as their mind has inhibited them from seeing such alternatives. They cannot be held responsible for something beyond their control. However, if they were to be rid of their compulsion, they would be able to recognize a whole array of possible courses of action. In the first case of the compulsion, their lack of agency prevents their actions from being an expression of character by way of only one choice being present. Whereas in the latter case, due to the abundance of possible decisions, the addict can be held morally responsible.

One could object to this picture, suggesting that being overtaken with strong emotion is tantamount to a compulsion. Such a position would be in line with the previous discussion of saying that one is not responsible for crimes of passion. However, we may have a reason for wanting to say that there is a significant difference between actions arising from strong emotions and compulsions. It seems that when I have a sudden upswell in emotion, I can identify it, label it, and consider its causes; though I may still feel the emotion, I can moderate its effects significantly through this analytic process in a way I may not be able to do for an addiction, which I could be able to recognize and consider, but be less capable of mitigating.

It seems that one of the next steps for proponents of the deep-self view is further clarifying the distinction between emotion, compulsion and addiction, and character. For example, what makes a repeated action a compulsion and the other a feature of one's character? While we may be satisfied to say someone is not responsible for their addiction, to say that someone is not responsible for having anger issues because they wish they were not so angry could be dissatisfying. Moreover, proponents should continue to flesh out this distinction between emotion-driven actions and addiction-driven actions. I have begun to sketch out some thoughts, but more needs to be done to unite philosophical and psychological literature in order to further validate or rebut the deep-self view of moral responsibility.

While I appreciate that both rejecting the deep-self view and biting the bullet on crimes of passion are plausible views, I believe that a deep-self view that can accommodate crimes of passion is the best way forward. That said, I also recognize that this view is not without flaws. As I mentioned, the view requires a further understanding of emotion, compulsion and addiction, and character. Perhaps even more challenging, the view asks us to question many long-held philosophical prejudices about the scope of rationality. Rather than maintaining a strict dichotomy between rationality and emotion, or body and spirit, this position asks us to view the human being as having beliefs, intuitions, and instincts all integrated within oneself. I hope that recognizing this broader and more integrated picture of the human being can also help paint a clearer picture of the issue of moral responsibility.



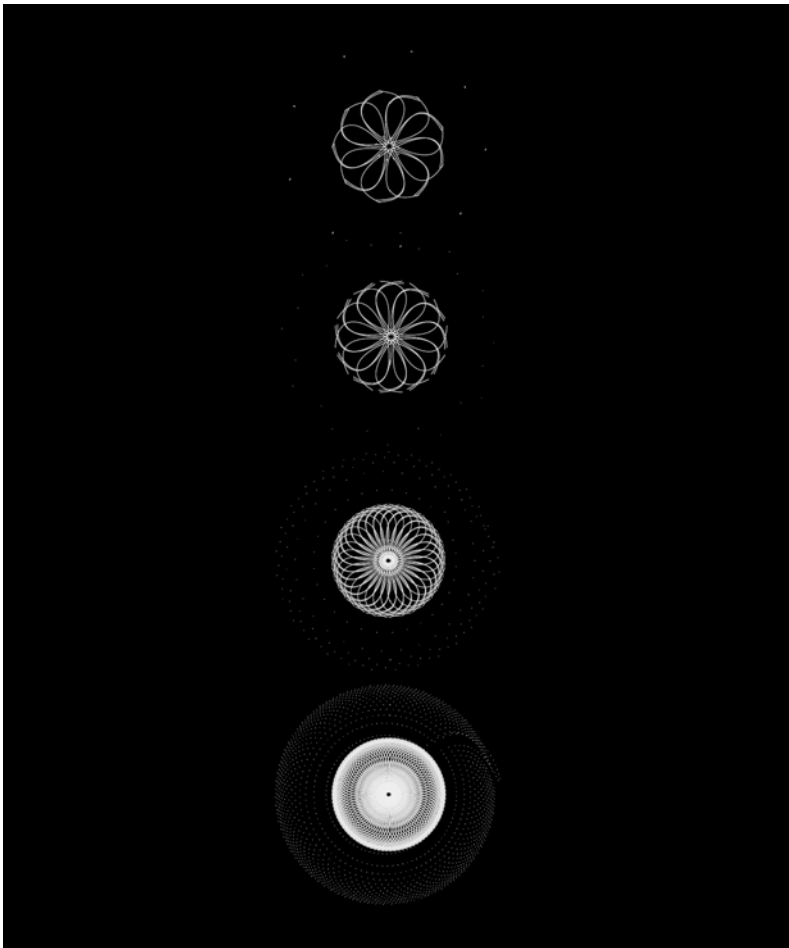


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SHAPESHIFTING: How to Validate Your Own Reality



MADELYN HUERKAMP

ABSTRACT

In this paper I explain the utility of shapeshifting through the figure of the sage and the nepantlera according to the *Zhuangzi* and “the path of conocimiento . . . inner work, public acts,” respectively. These two figures could serve as guidelines to protecting subjective truth in a tumultuous and egoistic time, and aid in defense against mental assimilation into normative cultures. A distinction between the two will be made, with emphasis on how the contextual development of the figures applies to different social situations, and a synthesis of the utility of their application in present day will follow. The process of shapeshifting, of not clinging to social custom and normative identity categories as a means to protect ourselves from mental harm and assimilation, may serve to be of some use to us all.



This essay will parallel the work of modern contemporary Chicana feminist, Gloria E. Anzaldúa (1942–2004) to the ancient Chinese philosophy of Zhuang Zhou, the assumed author of the *Zhuangzi*, of the later fourth century BC. The purpose of this comparison is to provide a tool that we may call upon when our subjective truths and opinions are challenged by dominant, normative views of our time, and how we may better serve ourselves and others when we are able to free ourselves of a personal identification with social norms that do not adequately accommodate our lived experience.

Both Anzaldúa's concept of the nepantlera and the figure of "the sage" in *Zhuangzi* present shapeshifting as a tool for maintaining the validity of subjective reality without gratifying social expectations to culturally assimilate. Beginning with the work of Anzaldúa and the contention between her sense of self and her cultural upbringing, the insufficiency of modern identity constructs will be made apparent, as they demand our sense of self to be unchanging and permanent. The *Zhuangzi* will follow to show how we need not resolutely uphold socially constructed morals, as they skew our worldview in an unequal and disillusioned way by gratifying inequality founded in moral superiority. To defend against rigid and arbitrary cultural beliefs, "shape-shifting," through Anzaldúa's concept of the nepantlera and the conceptual "sage" figure in *Zhuangzi*, will show how scrutinizing, reinterpreting, and maintaining many perspectives at once, or shapeshifting, validates subjective points of view without internalizing destructive social norms.

In a chapter titled "now let us shift . . . the path of *conocimiento* . . . inner work, public acts," from her book *This Bridge We Call Home: Radical Visions for Transformation*, Anzaldúa struggles to reconcile why her inner truth and understanding of herself and reality is not reflected in the worldviews and identities prescribed to her.¹ Anzaldúa is a queer, Chicana feminist writer of mixed racial heritage with spiritual roots in indigenous traditions, and was born in Texas, less than 100 miles from the U.S. Mexico border, in 1942. As an American, she feels her identity is dependent on the color of her skin, her gender, and her being working-class, each a distinction which arbitrarily rewards or deprives her of worth and value in the eyes of society and herself. The effect of this categorization is limiting, restricting her reality (life as she lives it and how she views herself) to conform to the stiff and sterile aspects of these identity categories to validate or dismiss her emotions and understanding. These identity categories ultimately fail to validate Anzaldúa's lived experience, and thus deprive her of the opportunity to lament their failure, as so

1 Gloria E. Anzaldúa, "now let us shift . . . the path of *conocimiento* . . . inner work, public acts," in *This Bridge We Call Home: Radical Visions for Transformation*, ed. Gloria Anzaldúa and AnaLouise Keating (New York: Routledge, 2002), 560.

much of her life, her culture, and understanding cannot neatly fit into the boxes of a prescribed assimilative identity.² She feels coerced to internalize white-washed ideals and beliefs regarding education when a professor denies her dissertation proposal because the subject matter, Chicana literature and feminist theory, are not "legitimate" philosophies according to the American education system.³ It is out of this strife and pain that the nepantlera is born.

Anzaldúa uses *conocimiento*, a Spanish word for knowledge, to describe her seven-stage process of questioning conventional views of how to live, concepts of identity, and popularly held belief systems that define "knowledge."⁴ Most importantly, the path of *conocimiento*, the path to knowing, allows people to validate interpretations of self that normative categories of identity cannot accommodate. Anzaldúa's path of *conocimiento* as an enduring process of reinterpretation and evaluation of identity requires her to accept the inadequacy of identity categories, recognize the pain incurred by her assimilation (internalizing what does not satisfy her lived experience), and in turn strive to uphold her own views (her subjective reality) without a familiar cultural foundation to validate them within.⁵ This stage in the path, the mental point where conflicting perspectives, "truths," or, as is Anzaldúa's case, two distinct cultural views, are held in equal consideration of one another to form a new understanding, is called *nepantla*.⁶ *Nepantla* is a mental space of transition; we see ourselves, both physically and mentally, as constantly changing, with our subjective reality (the story we tell ourselves about life and the world around us) in constant transformation as well.⁷ As a way to find meaning and purpose in life, after making peace with the fallibility of customary beliefs, we reorient what we "know" of the world from a point of constant transformation—we begin to live in *nepantla*.⁸ We can acknowledge racial, ethnic, and socio-economic divisions in society without internalizing them or defining ourselves according to others resisting assimilation. But to be cognizant of this transitory and fluid mental space is not enough: true embodiment and actualization ought to follow. In recognizing the need to concretely actualize this transitory perspective, we can begin to shape-shift; we can become a nepantlera.

2 Anzaldúa, "now let us shift," 561.

3 Anzaldúa, "now let us shift," 548.

4 Anzaldúa, "now let us shift," 541.

5 Anzaldúa, "now let us shift," 549.

6 Anzaldúa, "now let us shift," 548.

7 Anzaldúa, "now let us shift," 548.

8 Anzaldúa, "now let us shift," 562.



Translated as “the inbetweeners,” the nepantlera grapples with and mediates conflict arising between people from opposing cultural perspectives and the power dynamics at play within popular categories of identity. To act from the neutral point of *nepantla*, or transition, empowers the nepantlera to mediate and facilitate conversation between cultures that may otherwise refuse to accommodate one another, and in turn gives us the opportunity to investigate our own perspectives, our relationship to the world, and cultures we exist within.⁹ Nepantlera are divested of any absolute or unwavering identity because they understand that there is nothing inherently true, real, or objective to be found within them.¹⁰ Actualizing the neutrality of the *nepantla* worldview, transcending social norms, and any obfuscation of the transitory reality of all subjective perspective, the nepantlera becomes a vessel of transformation of understanding for people who are stifled under the thumb of assimilative racial constructs.

Anzaldúa, ostracized from both the white, American community that has deemed her as “too brown,” and her indigenous Mexicana culture that deems her as “too white-washed,” lands her in a unique position to be the perfect mediator between a group of white feminists and feminists of color at an East Coast feminist philosophy conference. The camp of white feminists contend that they need not accommodate their peers of color any further, while the feminists of color beg their white peers to contend with issues of racism, as they are not to be dealt with by feminists of color alone.¹¹ Anzaldúa shapeshifts between the two camps, enduring insults, anguish, and fear in the crossfire of hurt pride. But, having removed her consciousness and understanding from her body insofar as she does not see physicality as a limiting factor or meaningful part of who a person is, she can navigate back and forth between these opposing sides, shapeshifting as she sincerely engages with, listens to, and understands each, while also reconfiguring the perspective of what causes this kind of disagreement in the first place. When we remove ourselves from a conventional point of view, or, in Anzaldúa’s view, our ego, and instead allow our thoughts to proceed from a neutral perspective (*nepantla*), we create new ways of viewing the world.¹² In place of unconditional acquiescence to unquestioned cultural norms, we coalesce our past life experiences with the future we desire, trimming the fat of our own oppressive thoughts and rewiring the brain to more accurately reflect our worldviews.

Addressing oppressive worldviews becomes a key function of the conceptual “sage” in *Zhuangzi*. Zhuang wrote during China’s Warring States period (475–221 BCE), an era characterized by efforts to erect a new political dynasty. Moral constructs were developed to maintain social control and order, ensuring the authority of the ruling class, and giving each person a specific role to play. Moral virtues required a particular method or ‘way,’ the initial translation of the Chinese term *dao*. Traditionally, *dao* referred to a method of attaining a known goal or simply the “way” something ought to be done.¹³ Additional translations are the “road” or “path,” a guide through life that is not created by the actions of humans and so is not dependent on humans at all. It simply refers to the ways or patterns of nature that convey a rational structure of reality. The most important translation may be the “Guiding Discourse,” conversation and debate in a noncompetitive aspect.¹⁴ These two translations of *dao*, as noncompetitive debate and the structure of reality, will be relied on hereafter to articulate the nature of the sage. The use of *dao*, and the sage as the embodiment of *dao* in *Zhuangzi*, upends the assumption that there is any one right way to live, think, and be, as to affirm the rightness of one is to deny and make unjustified the existence of another. The figure of the sage, in complete opposition to the cultural conflicts of the day, is a provocateur, a passive figure that brings light to the arbitrary nature of popular morals, and in this way is a perfect embodiment of Zhuang’s use of the word “*dao*,” relinquishing power suggested by any construct that tries to limit reality or draw hard lines delineating right and wrong, or any worldview that seeks to delegitimize another.

From the second chapter in Zhuang’s “Inner Chapters,” the following quote elucidates how morality as a social construct is more arbitrary than it is justified by traditional use: “When rights and wrongs waxed bright, / the Course began to wane. What set the Course to waning was exactly what brought the cherishing of one thing over another to its fullness.”¹⁵ Our emotions influence our perceptions of the “rightness” or “wrongness” of how we live. This is to say that *de* (morality) does not offer an ultimate understanding of life and how to best live it, as any assertions based on subjective perspective are incapable of revealing any real, ultimate truths.¹⁶ Acting according to moral conventions, allowing them to “wax bright,” causes “the Course” to “wane” or become unclear.¹⁷ “The Course,” translated from *dao*, is the unseen, unspecified, and actionless cause of all things, whether that be humanity, cultural values,

13 Zhuangzi, *Zhuangzi, The Essential Writings: With Selections from Traditional Commentaries*, trans. Brook Ziporyn (Indianapolis: Hackett Publishing Company, Inc., 2009), 214.

14 Zhuangzi, *Essential Writings*, 214.

15 Zhuangzi, *Essential Writings*, 14–5.

16 Zhuangzi, *Essential Writings*, 214.

17 Zhuangzi, *Essential Writings*, 14–5.

9 Anzaldúa, “now let us shift,” 567.

10 Anzaldúa, “now let us shift,” 542.

11 Anzaldúa, “now let us shift,” 564.

12 Anzaldúa, “now let us shift,” 569.



or an ultimate reality.¹⁸ Creating exact judgments of the appropriateness of life causes “the Course” to wear away or “wane” as man forges his own path instead.¹⁹ If the course “wanes,” the changing and fluid condition of life is no longer understood. Relating “the Course” to its translation as “Guiding Discourse,” the flow of conversation between different perspectives on life is destroyed when moral conviction and egoistic superiority are favored over mutual respect for each other’s unique perspectives. There is no right “Course,” as all perspective is contingent upon our ever-fluctuating moods; thus, any viewpoint can at once be affirmed or negated by the perspective of another person. To create fixed moralities of “right and wrong” and to apply these concepts to people, who are also ever-changing and developing new aspects of personality, character, and lifestyles, completely eclipses the essence of life, the Dao, itself. That the earlier uses of *dao* referred to a “Guiding Discourse” illustrates the arbitrary nature of restrictive world views founded on rigid, categorical concepts of moral goodness.

Humans like our boundaries, our rights and wrongs. We love our rules, and we love to assume we know better than others. Consider what engaging in a political conversation today requires of us: an assumption that any political view we hold is one worth destroying a relationship over, and that agreement across the aisle is an impossibility. The sage, however, “has the physical form of a human being, but not the characteristic inclinations of a human being . . . Since he is free of their characteristic inclinations, right and wrong cannot get at him.”²⁰ Because the sage does not subscribe to any single world view and does not outwardly express esteemed characteristics (moral views according to pop culture such as Responsibility, Virtuosity, etc.), he transcends moral tethers.²¹ The relationship between the sage and shapeshifting as a means to protect from assimilation and oppression takes on a more passive and withdrawn nature. A song sung by the “madman Jiyue” overheard by the character Confucius in chapter four of *Zhuangzi* elucidates the nature of the sage and how he interacts with the Course:

But in the present age, avoiding execution is the best he can do with it . . . Drawing a straight line upon this earth and trying to walk along it—danger, peril! The brambles and thorns . . . they do not impede my steps. My zigzag stride amid them keeps my feet unharmed.²²

“Avoiding execution,” evading internal destruction by imposed foreign concepts, and “drawing a straight line” of rigid norms of acceptable perspectives and expecting ourselves to follow them exactly, puts us all in “peril,” as we no longer understand one another as changeable, unique individuals, ever blossoming in our understanding. Instead, we tear each other apart, with our “brambles and thorns” giving credence to those perspectives which separate us.²³ The sage, though, shifts about and switches his perspective depending on where the most violent and dangerous brambles of judgment lie. He zig-zags, or shapeshifts, externally abstaining from the demands or wants of the society he lives in without internalizing any of its popular worldviews as his own, remaining “unharmed” and successfully bypassing true assimilation.²⁴ The sage, as a perfect embodiment of the *dao*, is able to see all things and people from their own points of view and, though some perspectives are seemingly incompatible, they are nonetheless held in equal consideration within the sage’s mind.²⁵ The sage does not allow “likes and dislikes to damage [them] internally,” but rather encounters each moment as it appears, evaluates it fully and does not attach any feeling to that perspective.²⁶ The sage, recognizing the limitations of his understanding, never tries to go beyond what he “knows,” and so never attempts to demonstrate to others the truth of his individual perspective, as he knows it is no more true than someone else’s who might completely disagree with his worldview. Remaining cognizant of that which he sincerely does not know, the possibility of attack and strife in conversation with others is eliminated.

In relation to shapeshifting, our ability to halt destructive arguments by acknowledging when we do not understand the perspective of a person we find ourselves arguing with removes us from harm’s way. That which we assert as wisdom and knowledge never connects us, as these are perspectival truths with enduring rivals. Instead, it trumps, thwarts, and celebrates the artificial “short-comings” of others, excusing us from potentially meaningful conversations wherein we are met with perspectives different from our own that encourage us to investigate our convictions and recognize them as fallible. The less of ourselves that we give to others—the opinions we share, beliefs we hold, the future we desire, etc.—the less we might have taken away from us and invalidated. The passive sage loses nothing because he gives nothing, as there is no one perspective he serves to uphold.

18 Zhuangzi, *Essential Writings*, 16; 214.

19 Zhuangzi, *Essential Writings*, 14.

20 Zhuangzi, *Essential Writings*, 38.

21 Zhuangzi, *Essential Writings*, 38.

22 Zhuangzi, *Essential Writings*, 32.

23 Zhuangzi, *Essential Writings*, 38.

24 Zhuangzi, *Essential Writings*, 38.

25 Zhuangzi, *Essential Writings*, 38.

26 Zhuangzi, *Essential Writings*, 38.



It is worth questioning the practical merit of applying the methods of shapeshifting through the nepantlera or sage in our everyday lives. If, like the nepantlera, we never steadfastly stand by a particular belief or conception of ourselves, or, like the sage, we do not make our values obvious to others, then what do we have? What kind of person are we when, ostensibly, we stand for nothing? These concerns, though valid, assume that the nepantlera and the sage believe nothing, hold nothing dear, and are empty, idyllic figures which escape pain because they avoid reality—an impossible ideal with which to engage. Shapeshifting is not a means to avoid reality. It is not avoidant in the sense that it does not and should not deny the experiences of living in a neo-liberal, late capitalist society which racializes, excludes, and separates us from one another. The embodiment of the transitory and fluid mental-state of *nepantla* by means of the nepantlera actualizes and thus places in the world a perspective wherein all beliefs and understandings move fluidly through perception, giving credence to the experiences of marginalized people who are devalued by racial, ethnic, and gender categories that they did not elect to take on in the first place. If we are to be a nepantlera, then we must embrace potential hostility, and allow ourselves to set necessary and meaningful boundaries with others, even if that means we deny people the opportunity to have a relationship with us at all. The implications of the sage's neutrality, though, are a bit more alarming: if we appear uncaring, not upholding any morals whatsoever, the potential to allow and excuse exploitative behavior becomes incredibly easy. But to manipulate the nature of the sage to make exploitation and abuse permissible is a perversion of what the sage elucidates in the *Zhuangzi*. Righteousness is not assured; therefore, any moral judgments which condemn or uplift others to validate one person having power over another ought to be met with indifference, taking away the reactive power of these concepts that cause real harm in our lives.

Shapeshifting like the nepantlera and the sage may provide those who feel they cannot exist as they are with a means by which they can superficially acquiesce to or appear ignorant of invasive social customs without internalizing them. That these figures may aid in the avoidance of assimilation is to say that their behavior is so bound to the status quo (because they are constantly aware of it) that neither must acquiesce to a single viewpoint to live authentically. The methods of disengagement are not the same, with the nepantlera consciously extrapolating their own worldview from common thought and endeavoring to resolve conflict through equal consideration of all perspectives, whereas the sage, on the other hand, does not try to do anything at all.²⁷ While the nepantlera aims to gain mutual respect and understanding from across cultural worldviews, the sage behaves in a childlike manner without adherence to

absolute notions of value, no adherence to predominant logic, no notion of appropriateness beyond its application in a given scenario, and no ultimate purpose for which to toil.²⁸ The dispositions of the sage and the nepantlera could not contrast one another more, but the end result of their behavior, that no single perspective is considered absolutely valid above all else, helps show how shapeshifting can protect people from social assimilation. The nepantlera actively combats convention and can be seen by others as both understanding and in defiance of traditional ways of thinking. She responds through activism, opening herself up to the possible wounding words of others, but also supporting those who may not be able to speak for themselves in times of conflict.²⁹ The sage may act, but does so passively as a situation may call for, and does not act with any particular motivation in mind other than to embody the *dao*.³⁰ The sage does not serve to dismantle social norms but makes no aim to outwardly support and enforce them. Both figures evade internalization of world views which serve to harm and control people more than they ever could help them, allowing them to survive amidst cultural expectations to assimilate for some degree of comfort within society.

Rather than outwardly defying social norms, which often results in being “othered” by society, we may maintain a neutral reaction, appearing almost indifferent for the sake of our own wellbeing, and evading emotional harm and assimilation without forcing our own perspective on anyone else. We question why we hold the beliefs that we do; we maintain an imaginative, but focused, view on the constructs handed to us that we are told we ought to recognize ourselves through; and we shapeshift, seeing through the boundaries of culture to accommodate and make space for ourselves in such a way that we no longer depend on the judgments of predominant worldview to validate our own. We may serve as a bridge like the nepantlera, communicating and mediating conflict between individuals who may otherwise not be able to see the world outside the narrative they have always lived by, or we may become the sage, giving an air of indifference and remaining passive when told we must agree with something or that we must behave a certain way in order to gratify the opinions of others. It is this point of contact, their extreme awareness of and yet disengagement from commonly held beliefs and assumptions, unites the passive sage and the active nepantlera, and what could unite us as well in times of conflict. In light of this, I would say that while it may not always be necessary to shapeshift, we ought not reject the world that seems disagreeable to us, as we live in this world. It will step on our toes, and we cannot deny that, but we should not force our own worldviews onto others just to validate our own.

28 Zhuangzi, *Essential Writings*, 32.

29 Anzaldúa, “now let us shift,” 568.

30 Zhuangzi, *Essential Writings*, 38.

27 Anzaldúa, “now let us shift,” 567.



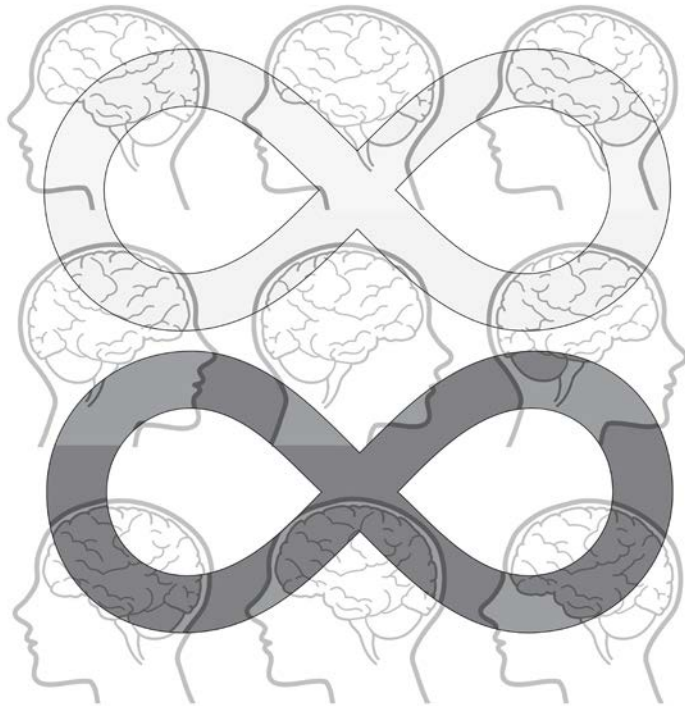


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AUTISTIC STUDENTS WITHIN THE COMMUNITY OF INQUIRY



ABSTRACT

The standard pedagogy within Philosophy for Children courses is the community of inquiry. In this paper, I argue that the current form of the community of inquiry does not properly accommodate autistic students. Using observations from Benjamin Lukey alongside my personal testimony, I illustrate how autistic students may struggle within the community of inquiry. Importantly, I argue that this need not be the case, as the community of inquiry can be made more inclusive if it were to emphasize collaboration instead of verbal dialogue.

RYLAN GARWOOD



I. INTRODUCTION

Following the work of Matthew Lipman, the standard pedagogy within Philosophy for Children (P4C) courses is the community of inquiry (COI).¹ This pedagogy encourages students (most commonly at the elementary level) to collaborate as equals within a dialogical exploration of some democratically chosen question. While the COI offers a more liberatory learning environment than traditional pedagogies, it is not as inclusive as it could be. For example, autistic students who find it difficult to verbally articulate their views may seemingly exhibit a lack of participation. It is my contention that, in its present form, the COI does not properly accommodate autistic students, but this does not imply that autistic students are unable to obtain a philosophical education. It is also worth noting that, while I am focusing on autistic students, they are not the only individuals who may benefit from my suggestions.

In the following section, I will briefly describe the COI as well as the verbal, social, and sensory phenomena that autistic people may experience. Then, I will use both Benjamin Lukey's observations as well as my own testimony as an autistic person to show how one might argue that, because some autistic students struggle to participate within the COI, they are exempt from a philosophical education.² In the second section, I claim that this constructed argument fails. To do so, I will firstly use work from Margaret Price to suggest that the COI would be far more inclusive if it focused on collaboration instead of verbal dialogue. Secondly, I insist that even if the current COI requires verbal dialogue, many other methods of philosophizing do not. Following my recommendations, I conclude by responding to the objection that verbal dialogue is indispensable to philosophy courses. In the same vein, I respond to the objection that collaborative students must eventually communicate with one another. Finally, I briefly comment on the idea that doing philosophy necessarily requires properties that some students may lack.

1 Matthew Lipman, *Thinking in Education* (Cambridge: Cambridge University Press, 2003).
 2 Since I will be using my personal testimony, it is also important to note that I am not the voice of the autistic community—my experience is not the autistic experience.

II. AUTISTIC STUDENTS WITHIN THE COMMUNITY OF INQUIRY

According to Lipman, the COI must have an aim, a sense of direction, and a dialogical structure.³ For example, the facilitator commonly reads a short story to a circle of students, which inspires them to ask many philosophical questions. The students then democratically choose which question they will collectively pursue. However, the COI is not merely a mutual sharing of opinions. As Lipman notes, a dialogue is the inverse of a conversation, as a dialogue emphasizes logical moves over personal remarks.⁴ A successful COI will consist of students engaging in a back-and-forth motion, building upon, and responding to the comments of their peers with the goal of developing a greater understanding of the chosen subject. Thus, the COI is almost entirely based on peer-to-peer verbal communication. Importantly, it demands precise verbal inputs that directly and logically follow from another student's comments.

Conversely, according to the DSM-5, autistic people show noticeable "deficits" in social communication.⁵ Deficits include difficulty developing and understanding social relationships, interpreting body language, and "failure of normal back-and-forth conversation."⁶ Furthermore, autistic individuals commonly exhibit repetitive behaviors and routines, with an insistence on sameness.⁷ Additionally, many autistic people have special interests: intense dedication and strong attachment to some object or idea.⁸ Finally, the sensory experience of autistic individuals often differs from the average person. For example, heightened sensitivity to sensory stimuli is not uncommon, causing some sensations to be overstimulating and uncomfortable.⁹

It is not difficult, then, to imagine how an autistic student may face unique challenges within the COI. During his time teaching philosophy to autistic students, Lukey noted (in the only paper on the intersection between autism and P4C that I am aware of) that they were largely uninterested in the comments of their peers, rarely asked questions out of curiosity, and lacked any signs of caring whether or not their comments were understood.¹⁰ With regard to the aforementioned description of

3 Lipman, *Thinking in Education*, 83–4.

4 Lipman, *Thinking in Education*, 87.

5 American Psychiatric Association. *Desk Reference to the Diagnostic Criteria from DSM-5*. (Arlington: American Psychiatric Association, 2013), 50.

6 APA, *DSM-5*, 50.

7 APA, *DSM-5*, 50.

8 APA, *DSM-5*, 50.

9 APA, *DSM-5*, 50.

10 Benjamin Lukey, "Rethinking Dialogue: Reflections on P4C with Autistic Children," *Thinking: The Journal of Philosophy for Children* 17, no. 1-2 (2004): 28.



the COI, Lukey concluded that “there was no community of inquiry, and it was not in the process of being formed.”¹¹ It seems clear from his testimony that the students were struggling with the communicative skills that the COI demands. In addition to struggling with communicative skills, autistic students may also find the sensory atmosphere of the COI to be troubling. While sitting in a circle with their peers, autistic students are forced to comprehend a plethora of sensory data at once. In particular, being expected to engage in face-to-face interaction with multiple peers may be daunting.

Lukey’s explanation of the struggles an autistic student may face within the COI generally aligns with my childhood experiences. Before I began to grasp the patterns of conversation, my strategy was to remain silent. During one parent-teacher conference, my teacher explained that, upon hearing a student speaking out of turn, she prepared herself to scold them—only to be overjoyed when she discovered that it was me. I would like to think that the younger version of myself would have appreciated the COI, but I know that I would not have contributed. As well as this, the standard classroom setting often conflicted with my sensory perception. For instance, the only way I was able to concentrate while reading was to plug my ears and put my head under my desk.¹²

For these reasons, it is understandable that Lukey ends his article by doubting whether autistic students and the COI are compatible.¹³ Seeing as the COI is the prominent method for pre-college philosophy education, one must wonder whether autistic students are destined to, as Lukey said, “miss the P4C bus.”¹⁴ An argument concluding that they are would look something like the following:

Incompatibility Argument

1. If autistic students cannot properly participate in the COI, then a philosophical education is unavailable to autistic students.
2. Autistic students cannot properly participate in the COI.
3. Therefore, a philosophical education is unavailable to autistic students.

It is my contention that the first premise is false, and the second premise might be false (depending on the goals and definition of the COI).

11 Lukey, “Rethinking Dialogue,” 28.

12 Lukey, “Rethinking Dialogue,” 28.

13 Lukey, “Rethinking Dialogue,” 28.

14 Lukey, “Rethinking Dialogue,” 28.

III. ALTERNATIVE WAYS OF PHILOSOPHIZING

Beginning with premise two, it is important to define “properly participating.” By “properly participate,” I mean that students are able to accomplish the goals of the COI. Under the current pedagogy, the goal is to verbally communicate philosophical ideas with peers in an effective, empathetic, and dialogical manner. As mentioned above, there are compelling reasons for thinking that many autistic students will be unable to meet those demands. However, it is not clear that the COI is *required* to focus on verbal, face-to-face dialogue to be a community of inquiry. Instead, if the COI is fundamentally about *collaborative* inquiries, then a verbal discussion component is not necessary, and autistic students may be able to properly participate.

By “collaboration,” I mean roughly the following: S and P are in collaboration if, and only if, S and P share the same goal, and S’s contributions further P’s progress in reaching said goal (and vice versa). It is essential that the students share the same goal to capture how collaboration involves working together as equals. Similarly, one student unilaterally assisting the other is not collaboration, but mentorship. Instead, as a metaphorical example, two students may desire to complete the same puzzle, even though each student only has half of the available pieces. It is necessary, then, that each student’s resources be eventually combined with the other to form a full picture. Combining resources in this way calls for autistic students to not be segregated from their peers at all times.¹⁵

Moreover, notice that my account of collaboration says nothing of *how* students are pursuing their goals and assisting one another. This reflects an anecdote from Price in which one of her students refused to write a draft of his paper.¹⁶ Instead, he would write a complete essay after thoroughly thinking it through.¹⁷ Importantly, Price notes that her student was earning “fair grades” on his papers.¹⁸ This anecdote illustrates how a goal, such as writing a paper, can be accomplished in many ways. One method may work best for most students, but one size rarely if ever fits all.

Successfully introducing a plurality of learning styles to the COI involves recognizing that the community’s goal is not to explore a philosophical question through a collaborative *dialogue* but to explore a

15 More on this in “Objections and Replies.”

16 Margaret Price, “Ways to Move: Presence, Participation, and Resistance in Kairotic Space,” in *Mad at School: Rhetorics of Mental Disability and Academic Life*. (Ann Arbor: The University of Michigan Press, 2011), 66.

17 Price, “Ways to Move,” 66.

18 Price, “Ways to Move,” 67.



philosophical question *collaboratively*. This idea seems entirely compatible with Lipman's initial conception of the COI. For instance, he writes that nobody should be excluded "without adequate justification," that verbal participation is encouraged but not required, and that face-to-face relationships are not "essential."¹⁹ Similar sentiments are found within the works of John Dewey, who argued that a desirable community is one that "makes provision for participation" of all individuals and "secures flexible readjustment of its institutions."²⁰ Thus, the spirit of the COI may be kept intact even if verbal dialogue is not the sole means of collaboration.

However, one may claim that verbal dialogue is inseparable from the COI as it is defined today. That is, any attempt to alter the COI's verbal nature is to semantically construct an entirely different pedagogy in its place. If so, then the COI is not the only available pedagogy for philosophical education and must be replaced. I am not concerned about whether a more inclusive pedagogy will be called the "Community of Inquiry." If supporting a plurality of learning styles results in the abandonment of the COI, then I encourage that outcome. In other words, even if premise two of the Incompatibility Argument is true, premise one is false. For the remainder of the paper, I will be using the term "COI" to represent the pedagogy of Lipman's vision that does not necessarily require verbal dialogue.

As an example of an alternative pedagogical method, logic is the backbone of philosophy, and many college students studying philosophy are required to take at least one logic course. Regarding autistic children in particular, I hypothesize that symbolic logic instruction would be a success. Personally, my first logic course radically changed the way that I viewed communication. Since most statements can be symbolized, I have found that I can better comprehend what someone is saying by visually picturing their words within symbolic notation. Similarly, perhaps students should be given the opportunity to annotate the dialogue of their peers, translating it into symbolic form so that others could view the structure of their arguments.²¹ Throughout my childhood, I found communicating complicated ideas through letters to be more successful than communicating through spoken words. Dialogue may still be available to autistic students if they are allowed to participate asynchronously.²² Under my view of collaboration, there is no temporal

restriction—students may be in collaboration for a matter of months. With that in mind, facilitators ought to entertain the idea of written dialogues. Written dialogues would, firstly, eliminate the sensory stressors from the face-to-face COI. Secondly, they would allow students who struggle with verbal communication to participate in writing.²³ Regardless of if these methods would be helpful for most autistic students, they are two of the many alternative ways to engage with philosophy and are a sign that current pedagogies ought to broaden their scope.

IV. OBJECTIONS AND REPLIES

One may object to my move from verbal dialogue to collaboration by arguing that verbal dialogue is indispensable to philosophy courses. For instance, it may be the case that nonverbal pedagogies would eliminate the fluidity and spontaneity of verbal dialogues. Additionally, by waiving the requirement to verbally participate, I am allowing autistic students to miss out on the activity that would improve their philosophical skills most. Finally, it could be objected that prioritizing nonverbal pedagogies would be unfair to the majority of students who presumably prefer verbal dialogues.

Firstly, it is not clear to me that verbal skills are the epitome of philosophical flourishing. Whether modern or contemporary, we generally do not study the spoken words of philosophers, but the academic works that they produce—some of which are incredibly symbolic.²⁴ The value of philosophical works comes from their clear communication of logical arguments, not their verbal fluidity or spontaneity.

Secondly, the notion that educators must choose to either further develop a student's strengths or improve their weaknesses is a false dichotomy; I am not convinced that only one option is available. Additionally, unique modes of thinking are precisely what cause paradigm shifts. By allowing the student to develop their natural strengths, both the student and the society at large reap the benefits.

19 Lipman, *Thinking in Education*, 96.

20 John Dewey, *Democracy and Education: An Introduction to the Philosophy of Education* (New York: The Free Press, 1966), 99.

21 Price, "Ways to Move," 94–5.

22 To make an implicit assumption explicit: My conception of a "dialogue" is not necessarily verbal in nature. However, it seems to me that a "dialogue" must be, broadly speaking, communicative.

23 For a recent example of this objection, see Rebekah Wanic and Nina Powell, "The Problem with Student-Centered Education," *Heterodox: The Blog*, October 11, 2022, <https://heterodoxacademy.org/blog/the-problem-with-student-centered-education/>.

24 Consider - Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, trans. C. K. Ogden (New York: Dover Publications, Inc., 1999), and Benedict Spinoza, "Ethics," in *Spinoza: Complete Works*, ed. Michael Morgan (Cambridge: Hackett Publishing Company, Inc., 2002), 213–382.



Finally, I am not suggesting that *every* student must participate in nonverbal activities. As previously mentioned, students could practice symbolically annotating an existing verbal dialogue. Rather, there are ways for students to engage in different activities *together*. Moreover, pitting the needs of the many against the needs of the few is fundamentally antithetical to a collaborative community. Effectively reaching a shared goal involves utilizing the strengths and perspectives of all individuals. Admittedly, it is unlikely that every student will have their educational needs met at all times. However, this is not uniquely true of philosophy courses that include autistic students. Any group of students will possess varied aptitudes and levels of understanding which must be individually cultivated. In sum, a group of individuals cannot be accurately described as “collaborative” if a portion of them is deliberately cast aside.

However, one might also object to my notion of collaboration by observing that students must eventually exchange their knowledge with one another. To return to the metaphor, there must be a point at which the numerous puzzle pieces are merged into a larger picture. Assuming that this merging is primarily accomplished through verbal mediums, it is reasonable to worry that autistic students will struggle or be completely unable to do so. As a result, perhaps a collaborative outlook will nevertheless fail to offer a pedagogy in which autistic students may properly participate.

As previously mentioned, verbal mediums are not the only available means of communication. Namely, students may trade written pieces, which seemed to work for many notable philosophers who interchanged letters with their coinquirers. Additionally, visual aids may also serve a communicative purpose. For example, in *The Geometry of Desert*, Shelly Kagan explains numerous theories of desert by using over 200 graphs.²⁵ By visually mapping ideas in a similar way, two students may theoretically learn from one another without relying upon spoken words. Thus, both offered objections fail in their overemphasis on the necessity of verbal communication.

This brings me to the final objection. I have been writing as if the students in question possess the capability to communicate in these versatile and unique ways. However, there will be students who simply *cannot* write letters, symbolize arguments, or draw meaningful graphs. Can the P4C movement accommodate these students? Admittedly, I am unsure of how to respond to these cases. If the bare minimum to do philosophy requires having properties X, Y, and Z, and a person does not have the properties X, Y, and Z, then it follows that they cannot “do philosophy.” However, there are two points that must be stressed. Firstly, the students in question are still moral patients, and they are

entitled to not be treated as anything less than such. Secondly, perhaps the community should be valued more than the inquiry. That is, the primary goal that students should be collaboratively pursuing is much grander than, say, developing a theory of free will. Instead, the primary goal of all education is to learn how to assist and peacefully live among one another. In that case, students should not be segregated from their peers, as “the very process of living together educates.”²⁶

In conclusion, the dominant pedagogy within P4C courses has room to be more accessible to alternative learning styles. When I reflect upon the gift that philosophy has been for my life, I only wish that I had discovered it sooner. My hope is for many young people to be introduced to philosophy before they enter college. To do so, we must acknowledge that there exists a wide variety of means to engage with the discipline. The fact that one method is most common neither implies that it is best nor that all students must adopt it to avoid being excluded.

25 Shelly Kagan, *The Geometry of Desert* (Oxford: Oxford University Press, 2012).

26 Dewey, *Democracy and Education*, 6.





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ESCAPING SELF-SACRIFICE: Changing Black Women’s Relationship with Servility



ANIYAH MARIE DALEY

ABSTRACT

This work “Escaping Self-Sacrifice: Changing Black Women’s Relationship with Servility” is a deep dive into Lisa Tessman’s *Burdened Virtues*. Addressing the idea of servility as a burdened virtue that requires self-sacrifice, I strive to reevaluate the traditional role Black women have in their families and within their communities. I argue that the demands of Black women are so excessive that they have lost touch with their self-regarding virtues, causing them to have ethical imbalances within themselves. This work is a part of an ongoing attempt to counter oppressive practices with joy as a form of resistance. I use the idea that simply existing is enough for Black women without the added burden of taking care of everyone else.



No matter how much others might study, learn, or write about what it is like to be Black or what it is like to be a woman in this country, the experience of Black women can only truly be captured by those who live in the Black female body. As bell hooks points out, Black women have lived experiences within the racist patriarchy that cannot make us a simple object of study for feminism (or Black studies); instead, the experiences of Black women offer an additional vantage point. This vantage point can be applied to the works of several authors and creators who attempt to capture the voices of marginalized groups from an outside perspective. With that said, my analysis of Lisa Tessman's *Burdened Virtues* offers my additional point of view as a Black woman.¹ I will be using Tessman's concept of servility as the foundation for my proposal on balancing the demands of Black womanhood while also creating a life for oneself. The inspiration for this argument stems from not only my lived experience as a Black woman in America, but also as the daughter of a Black woman and a witness to the culture of the Black community. While the root of my argument comes from an understanding of oppression, the purpose goes far beyond the boundaries that oppression has created for Black women in society. The point of this piece is to examine what balance looks like for Black women in communities that demand so much from them.

To first understand what oppression looks like for Black women, I want us to consider the work of bell hooks.² The general notion of oppression is described by hooks as an absence of choices. However, within this description, she acknowledges that most women (situated in the U.S.) do in fact have choices, so hooks leans towards the ideas of exploitation and discrimination to describe how women are treated in society. Exploitation refers to the idea that women are taken advantage of for what they offer to the world. Discrimination is the recognition and understanding of differences (in this case, between women and non-women).

Tessman offers that burdened virtues are traits typically considered vicious by others but are reevaluated as virtuous for oppressed people.³ Of course, this reevaluation accounts for the difficulty of possessing these virtues as an oppressed person; thus, this is the acknowledged "burden." Different oppressed people have

different relationships with their burdened virtues. For the scope of this paper, however, I look at Black women and our oppression as it relates to the burdened virtue of servility.

The concept of servility is used in Tessman's work in passing and is defined as a result of the internalization of stigmas and hierarchies for oppressed people.⁴ These stigmas are often related to gender, race, class, and other social groupings. When Tessman refers to servility in her writing, it is in comparison to Thomas Hill's claim that servility is a vice. However, Tessman speaks on servility for women being a result of their oppression. She continues to explain servility as an experience in which the emphasis on the self is considered less worthy by an individual because of their expectation to serve others. Tessman states, "... one may be required to exhibit what appears to be servile behavior, without having the accompanying beliefs that would qualify one as having a character trait of servility."⁵ This idea is continued as Tessman explains that many women only consider themselves good and valuable if they are able to care for others. Unfortunately, this mindset leads to a pattern of self-sacrifice, and this self-sacrifice is a direct cause of the imbalance between other and self-regarding virtues.

Specifically, servility in women is an other-regarding virtue. An other-regarding virtue is a virtue that serves other people as well as yourself. So, for women, servility is an other-regarding virtue that describes what they are expected to do for those around them. This may include taking care of the household, upholding men, and fostering a nurturing environment. The burden of this virtue is that servility is engrained in the woman's role. Other other-regarding virtues could, in theory, stop being done, but servility is a constant state of being for women. Servility is not a vice because it is not the intention of women to lean towards servility. Because oppressed people, as a consequence of their oppression, are forced by society to prioritize their other-regarding virtues, the eagerness to label servility as a vice diminishes. In Tessman's interpretation of burdened virtues, we understand that the oppressed have a different relationship with virtues.⁶ Servility is a virtuous act for women, and it helps several others. With that said, the burden of servility on women makes their relationship with their self-regarding virtues complicated. The difference between self-regarding virtues and other-regarding virtues involves whom

1 Lisa Tessman, *Burdened Virtues: Virtue Ethics for Liberatory Struggles* (Oxford: Oxford University Press, 2005).

2 bell hooks, "Black Women: Shaping Feminist Theory" in *Feminist Theory: A Philosophical Anthology*, ed. Anne Cudd and Robin Andreasen (New York: John Wiley & Sons, 2005), 60-8.

3 Tessman, *Burdened Virtues*, 4.

4 Tessman, *Burdened Virtues*, 66.

5 Tessman, *Burdened Virtues*, 66.

6 Tessman, *Burdened Virtues*, 35.



you are interacting with. Self-regarding virtues are virtues that relate to the self, meaning that the effects of the virtue lead to a benefit of the self and self alone. On the other end of that spectrum, other-regarding virtues lead to the benefit of others. When we put this into play with women's other-regarding virtue of servility, it is assumed then that servility is not "wrong" or "bad" for women, just burdened. However, not all other-regarding burdened virtues require a sacrifice of a self-regarding virtue, so the issue that comes into play is how this happens for women. The requirements of servility in women are so extensive that they interfere with their self-regarding virtues. As stated before, the burden of servility is the constant pressure that women have from others to put their homes, children, and families (the world) before themselves. While this helps everyone in the women's life, it leaves very little space, energy, and time for women to pour into themselves. The balance between self-regarding virtues and other-regarding virtues is important for having a good life. While other-regarding virtues are important, if they prevent one from having self-regarding virtues then there is a character imbalance. Other-regarding virtues are ethical, but not beneficial for the oppressed. Self-regarding virtues are beneficial, but not necessarily ethical. The importance of this balance is that we need both. Otherwise, we run the risk of not having all that we need for a good life. Oppressed people do not have the privilege to put their self-beneficial virtues above their morally right ones. So, servility (being an other-regarding virtue that is ethically okay and good for others) is not always beneficial for the self. This absence of self-regarding virtues prohibits women from truly living well.

As mentioned before, my goal is to identify how servility affects Black women. It is important to address that there are many similarities between Black women and other marginalized groups of women; however, my analysis only focuses on the distinction between Black women and White women. As hooks describes, let us consider Black women not only as a part of the category of "women" but also as Black bodies that were previously owned. There is an added historical sense of lack of autonomy. Then, we can think about the 1900s Black woman being the upholder of the Black household: the stereotyped "mammy" that depicts a Black woman who is extremely motherlike, or even the idea of the Black matriarch "holding it down" for her family as we would say today. Even in the contemporary Black family unit, Black women are the "glue" of their familial communities. These are just stereotypes

of Black women, first created in a society of whiteness but also upheld in Black communities to this day. These stereotypes lead to expectations for Black women to play into their roles, which leads to exploitation. The exploitation of the role Black women play is the burdened virtue of servility, and the servility of Black women holds up the Black family unit. When Black women put everyone before themselves, they do this for their community's sake. This is why this analysis of servility heavily relies on the expectations of Black women within the family for comprehension of resistance.

Servility almost goes beyond the idea of an expectation and moves to a necessity. Black women must practice servility as a necessary part of the way the Black family is structured. If Black women were to give up on their virtue of servility in a pursuit of more self-regarding virtues, this would negatively impact not only themselves (and be ethically flawed) but also their communities. However, this necessity begins to translate into exploitation when the work done by women is not only taken for granted but expected beyond a reasonable amount. In this case, servility is the over-giving of Black women to those around them and the exploitation is the constant taking. Now we are led to the issue of servility and its effect on ethical balances of other, self-regarding virtues of Black women. Because we as Black women can not necessarily rid ourselves of servility, we have to find a way to resist it. Resistance acknowledges the near permanence of the situation created by servility while actively finding ways to work both around and within the structure. Attempting to change our relationship with servility can act as resistance for Black women. Resistance in this case should not be thought of as a performative or even an overly outward act done by Black women; instead, we should think about it as a way of pushing back against expectations in small ways.

For instance, while Tessman makes the relation between servility and sacrifice, I do not believe that servility should have to be linked with sacrifice directly.⁷ Yes, it requires selfless acts, but my proposition of resistance might challenge the idea that sacrifice has to be a necessary condition of servility. My goal here is not to give an account of how to get rid of servility for Black women; that is something that would have to be taken case-by-case. Instead, the goal is to explain why mastering existence in this space as a form of resistance will take away some of the burden of the virtue. By "existence" I mean the sense of liberatory consciousness, existing in a space of oppression with awareness without letting the awareness

7 Tessman, *Burdened Virtues*, 66.



consume oneself. While existence and resistance may seem like contradicting terms that cannot co-exist, there is power in existing as a way of resisting that makes the terms more alike than is first apparent. In other words, resistance takes many different forms. In a society that demands servility from Black women, the fight against these demands can look different for everyone. Instead of thinking of resistance as the only way to put a stop to something or to tell society what you are not going to do, existence can be a way to do it too. Existence is living in the discomfort of oppression with a consciousness that there are expectations that are inescapable but not letting those expectations dictate all actions.

Existence for a virtuous Black woman who exercises her servility means she does not let it consume her. Black women can be Black, a woman, a mother, and a caretaker while also being independent, strong-willed, and still partake in the joys of life. If we think about resisting servility as small pushbacks, we can also rationalize ways for servility and our self-regarding virtues to balance out. For instance, a small pushback would be abandoning the superwoman mentality and asking for help. Oftentimes, the reason why servility is so easily exploited is because many Black women do not like to seem weak, or in need of anyone else. However, asking for help and holding other people within your community accountable for the roles that they should play in a functional family can alleviate the burdens that are upheld by servility. The resistance to servility is not only about changing the relationship that Black women have with the virtue, but also about pushing back against their societal expectations.

Resistance qua existence is making space for ourselves when society tells us we should not have one. Resistance is changing the narrative of what it means to be a Black woman in a society that only acknowledges us for what we can do for others. With that said, resistance is also taking the sacrifice out of servility, lessening the burden, and creating a space for our self-regarding virtues to grow and develop without being stifled by societal pressures. Part of why people have gotten away with exploiting Black women for so long is because Black women have also believed the narratives that were created for them. Black women believed that they belonged in the house, or belonged to men, or needed to prioritize everyone but themselves. When I suggest taking existence and making that the power, it is about regaining our autonomy. Yes, servility is expected. However, if Black women have the virtue of servility because they are powerful women who can fulfill what they must

do and make time for themselves, then that is their autonomy. Power and autonomy are not interchangeable terms, but rather they are terms that feed off one another to make each stronger. The determination to gain autonomy is what makes Black women powerful—in this instance, existing as more than the role of the servile Black woman paves the way for autonomy. That is how Black women find power in the acts that they do.

While it may be difficult for anyone who is not a Black woman or has never had a close relationship with one to grasp how my ideas look in reality fully, I want to do my best to try. To set the scene for what I am suggesting, I want you as the reader to consider this context: imagine a little Black girl with an entire maternal history of caregivers. Her mom cared for her family, her mom's mom cared for her family, so on and so forth. Now, to offset some of that load she sees her mom carrying, she helps. This care for her mother is natural, not forced, because she sees what her mother has to go through and does not want to add to the burden. So instead, this young Black girl offers to help out: she folds some clothes, washes some dishes, and does this because she sees her mother do it. She keeps this up because the idea of helping her mom is rewarding and praised. Family members talk about what a “good girl” she is, and her parents consider her the perfect daughter. Everyone is operating as if the little Black girl chose to be a helping hand out of the kindness of her heart—until she stops choosing it.

When young Black women do not follow in the footsteps of their mothers, stop being interested in house upkeep, or decide that they would rather be outside with friends or boys, they are considered “fast,” disobedient, and disrespectful. This can be confusing for a young Black girl because while she was doing the right thing by being helpful, she will not realize that the help she had been giving for so long was a part of a bigger game of exploitation. So, instead of being able to go out, be young, and have fun like everyone else, the young Black girl is in the house helping—this time not because she wants to be, but because she has to be. Her mother does not sympathize because that is what every woman has done in their family as long as they have known, and no one cares or even realizes that the little Black girl gets added to the cycle.

This example that I am giving is the exploitation of servility at play and showcases the responsibility placed on Black women that is perpetuated through a cycle of expectations and exploitation. Yes, servility is a virtue, but the burden of it can do much more internal damage than anyone could predict. If we consider the



example above, but with the small pushbacks that I am suggesting, the cycle could be different. Instead of a cycle of women who put others before themselves and lack their own sense of identity outside of the family unit, there can be a cycle of Black women who create healthy boundaries for themselves. If the little Black girl saw a woman who took care of herself first, prioritized her health (both physical and mental), or took time away from the family every so often, then maybe she would not also be subjected to the stress of doing everything for everyone. This is what I mean by small pushbacks. I am not suggesting that Black women boycott their role in the home and leave it to their husbands or sons because I believe there is pride in having the virtue of servility. Instead, I am encouraging purposeful ways of removing servility from the forefront of Black women's lives and shifting the focus to self-serving activities and attitudes so that the cycle of exploitation does not continue.

I have given my account of existence as resistance as a way to live with servility; however, the opposition to my argument would say that existence is a form of giving in. This counterargument would combat the fact that we can accept servility and still strive for autonomy or freedom. Additionally, an objection to my argument might not see existence with servility as enough to be considered impactful for Black women. These would all be fair critiques. However, my argument is not meant to be directional. If doing away with servility were possible, there might have been a proposition for that already. My work does not strive to give concrete examples of how servility will be diminished or tamed; it instead focuses on the foundations of servility and uses that foundational knowledge to navigate our place in society. My goal in writing this is to add perspective to a concept that had not yet seen the view of a Black woman. This piece is a part of an ongoing attempt at countering oppression and oppressive practices with actions that bring joy and peace to Black women.

To address the idea that existence is a way of giving up: I would encourage the counterargument to consider the gray area between resistance and complacency. The counterargument aligns my view of existence as one of complacency when, in reality, existence is nothing of the sort. Existence is accepting the things we cannot change and navigating the world with that knowledge. My focus on existence as a concept requires readers not to think of it as doing nothing. To exist in society as a Black woman who is oppressed is enough. The need to defend the importance of my existence and the existence of people who look like me to a world that has already proven that they will not believe me is exhausting. That constant state of proving to other people that they cannot define Black women is just an extra burden. Instead, existence takes the role given to a Black woman by society and makes it mean so much more.



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THE RULE OF LAW AND JURY TRIALS



RAYMOND PETERS

ABSTRACT

In *The Rule of Law in the Real World*, Paul Gowder presents a new account of the rule of law based on three conditions: publicity, regularity, and generality. In this essay, I examine two closely related questions that are prompted by Gowder's version of the rule of law. First, does the rule of law require citizens to follow the law? Second, what does Gowder's account mean for jury nullification? I argue that the rule of law does not require citizens to follow the law, but it does prohibit jury nullification. A discussion of some moral implications and objections follow.



In *The Rule of Law in the Real World*, Paul Gowder sets his account of the “strong” version of the rule of law as the fulfillment of three requirements: regularity, meaning that officials are “reliably constrained to use the state’s coercive power only when authorized by good faith and reasonable interpretations of preexisting, specific rules”; publicity, meaning that when officials use power, the rules under which power is exercised are accessible to citizens; and generality, which requires that the social meaning of a law expresses the equality of the citizens it regulates.¹ In her critique of Gowder titled “The Rule of Law, Democracy, and Obedience to Law,” Colleen Murphy takes aim at an argument Gowder makes in his discussion of the generality condition and the Jim Crow South, contending that Gowder is incorrect in his assertion that the rule of law does not require citizens to obey the law. I agree with Gowder in his response to Murphy: the rule of law does not require citizens to obey the law. In this essay I discuss the puzzle that jury trials, particularly jury nullification, present for Gowder’s account. I argue that jury nullification violates two of Gowder’s conditions for the rule of law and that jurors have a duty to approach trials as fact finders, not as arbiters of the morality of the law in question. While the rule of law does not impose a duty on citizens to obey the law, it does require them to apply it when asked to act as jurors.

Gowder analyzes the issue of whether or not the rule of law requires citizens to obey the law through the lens of the Jim Crow South. Because a combination of state and private action was responsible for the racism of the Jim Crow South, it is frequently used as a concrete example for why the rule of law imposes a duty on citizens to obey the law. Empowered by the state’s legislation and enforcement of racist laws, private organizations like the Ku Klux Klan and mobs of angry white citizens inflicted violence and terror upon black citizens, and lynching seems to be a prime example of a private action that violates Gowder’s third condition: generality. If fulfilling this condition requires the state to legislate and enforce laws that express the equality of citizens, lynching would be a violation as it breaks the law by reinforcing a racial hierarchy.

Gowder responds to this issue by clarifying what he sees as a historical mistake. Lynching, instead of being a private action, was allowed to exist and was facilitated by the inaction of the state (and frequently encouraged by the participation of state officials

as private citizens). When the state declines to prosecute those responsible for lynching or to draft legislation to stop or investigate it, the state violates generality since the deliberate failure to protect African Americans reinforces white supremacy. Therefore, the violation of the rule of law is not located in the actions of the private citizens who committed the crime of lynching, but rather in the failure of the state to respond. Had officials cracked down on lynching and punished those who carried them out, they would have likely stopped. As Gowder notes, “at those rare moments where local officials actually tried to put a stop to the lynchings, they largely succeeded.”² Therefore the violation of the rule of law is not in the violence of the citizens in the Jim Crow South, but rather in the intentional failure of the state to punish wrongdoers, protecting one racial group over another. Even if the failure to protect African Americans had been unintentional, the failure to stop the oppression of one racial group by another clearly violates generality. Generality requires that the law itself expresses the equality of the citizens it regulates and that citizens enjoy equal protection of the legal system.

In response to this argument, Colleen Murphy discusses the 1899 lynching of Sam Hose in “The Rule of Law, Democracy, and Obedience to Law.” Hose was a twenty-one-year-old African American accused of the murder of his white employer and the sexual assault of his employer’s wife. Hose’s arresting sheriff and one hundred and fifty armed escorts were confronted by a mob that demanded Hose be turned over to be lynched. Held at gunpoint, the sheriff acquiesced to the mob’s demand and Hose was soon brutally lynched.³ In threatening the sheriff and lynching Hose, Murphy argues that the citizens of the mob rendered “futile the actions of government officials, and . . . also undermined the ability of law to meaningfully govern conduct in fact.”⁴ Gowder, Murphy contends, misses the “political character and purpose of [Hose’s] death” that made the lynching more severe than murder.⁵ These actions are precisely the sort of actions by civilians that are deserving of a rule of law critique, because of the way that they interfere with the enforcement of the rule of law. Citizens are permitted to resist the implementation of unjust laws in other

1 Paul Gowder, *The Rule of Law in the Real World* (Cambridge: Cambridge University Press, 2016), 12; 15; 34.

2 Gowder, *Rule of Law*, 54.

3 Colleen Murphy, “The Rule of Law, Democracy, and Obedience to Law,” *Saint Louis University Law Journal* 62, no. 2 (Winter 2018): 299, <https://scholarship.law.slu.edu/lj/vol62/iss2/4>.

4 Murphy, “Rule of Law,” 300-1.

5 Murphy, “Rule of Law,” 301.



ways on Murphy's account, so long as they do not interfere with the enforcement of the law by officials.

Gowder responds to Murphy's critique by returning to the relationship between private and state actors. Gowder first points out that the crowd did little to Hose that state officials did not already plan to do themselves. The sheriff who turned Hose over to the mob had planned to hand him over to be lynched by the mob before being threatened, and the disagreement between the mob and the sheriff was regarding the sheriff's desire to take Hose to jail prior to allowing the mob to lynch him.⁶ Had the sheriff wanted to give Hose a fair trial, he likely would have provided greater protection to Hose and put up more resistance to the threats of the mob. Additionally, it is important to recall the state's role in establishing the racial hierarchy of the Jim Crow South in the first place. Without the state's explicit legal discrimination against African Americans, private citizens would likely avoid such brazen acts of violent white supremacy.

Murphy misses the essential connection between the actions of state officials in the Jim Crow South (their establishment of racial hierarchy and refusal to punish racial violence) and the acts of racial violence of citizens that made lynching "qualitatively as well as quantitatively distinct from ordinary lawbreaking."⁷ As Gowder argues in *The Rule of Law in the Real World*, "the boundary between ordinary citizens and the state can sometimes be quite porous."⁸ The Jim Crow South offers an excellent example of this blurred boundary because of the way mobs and organizations like the KKK "genuinely compete with the existing government for monopoly control over the use of force in the jurisdiction . . . assuming the Hobbesian and Weberian properties" of the state.⁹ The state's inaction and tacit permission gave white citizens and organizations like the KKK quasi-sovereignty over the legitimate use of coercive violence, so long as it was applied to particular minorities. If the state has incidents of lynching, but those who take part in it are properly punished and vilified by the state, then lynching does not constitute a failure of the rule of law. So long as generality is codified into law and enforced, lawbreaking actions of private citizens do not violate the presence of rule of law in a

state; the demands of the rule of law would be placed upon the state alone.

If the rule of law does not require citizens to follow the law, what is required of citizens when they are asked to act as jurors? After all, jury trials represent the use of private citizens to determine the guilt or innocence of a person accused of a crime by the state. Is there a rule of law concern when the application of law is placed into the hands of private citizens? Does the rule of law demand that juries avoid basing their decisions on the morality of the law at hand? In "The Rule of Law and Equality" Gowder mentions this as a possible worry in a footnote. Since juries "traditionally need not explain themselves," Gowder sees them as a possible counterexample to the publicity requirement as a whole, suggesting that jurors are quasi-state officials.¹⁰ While juries "need not explain themselves," Gowder recovers the publicity condition in our ability to "impute reasons to the jury by limiting them to questions of fact: we can ordinarily interpret a jury's ruling as being given because they found facts consistent with the legal theory given to them by the judge."¹¹ From this, Gowder identifies the problem that I will now discuss: his version of the rule of law creates "a potential rule of law objection to jury nullification."¹²

Juries play dueling roles in an adversarial criminal justice system. First, juries function as a legitimator for the use of coercive violence by the state in convicting someone, thereby serving the needs of the state. Juries issue the state authority to punish individuals of a crime by providing the public mandate of a guilty verdict: the collective belief of a jury that the state has proved the defendant is guilty and should be punished. In this role, juries act as quasi-state officials by granting the state public assent and the authority to punish.

Juries check on the power of the state by taking the decision to punish out of their hands and by requiring the state to prove that its evidence against the defendant is enough to reach a certain threshold. Juries make the decision of who to punish a democratic process, and in doing so, take power away and protect citizens from the whims of the state. To preserve this function, the U.S. Constitution codifies the right to not be charged more than once

6 Paul Gowder, "Resisting the Rule of Men," *Saint Louis University Law Journal* 62, no. 2 (Winter 2018): 347, <https://scholarship.law.slu.edu/lj/vol62/iss2/8>.

7 Gowder, "Resisting," 350.

8 Gowder, *Rule of Law*, 53.

9 Gowder, *Rule of Law*, 53.

10 Paul Gowder, "The Rule of Law and Equality," *Law and Philosophy* 32, no. 5 (September 2013): 585, 10.1007/s10982-012-9161-2.

11 Gowder, "The Rule of Law and Equality," 585.

12 Gowder, "The Rule of Law and Equality," 585.



for the same crime (double jeopardy) in the fifth amendment.¹³ Therefore, the state is unable to appeal a “not guilty” verdict. This is not to assert if the rule of law can exist in states that do not use jury trials in their criminal justice systems, like the inquisitorial judge-based system of France. Instead, the argument I would like to make is that the rule of law demands a duty of jurors to avoid jury nullification: “a jury’s knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself, or because the result dictated by law is contrary to the jury’s sense of justice, morality, or fairness.”¹⁴ I will argue that jury nullification violates Gowder’s publicity and regularity conditions for the rule of law and jurors should therefore approach trials as fact finders, not arbiters of the morality of the law in question.

To justify a duty based on the rule of law to avoid jury nullification, I will first distinguish jury nullification and Gowder’s example of following the law in the Jim Crow South. In the case of the Jim Crow South, Gowder finds the violation of the rule of law in the inaction of the state rather than the actions of private citizens. Because the state could have taken measures to prevent violence against African Americans but chose not to in order to reinforce the racial hierarchy it legally established, the state violated the generality condition. Essential in Gowder’s reasoning is the fact that state officials could have chosen to enforce the law equally had they wished. However, if state officials did not have the ability to rectify the actions of private citizens that violated generality, the actions of those private citizens would constitute a violation of the rule of law. In most nations, the power to enforce the law is held exclusively by the state, meaning that if any part of the criminal justice process is intentionally placed outside of the authority of state officials, there is the potential for the actions of private citizens to violate the rule of law.

Importantly, there is a fundamental right given to American citizens by the U.S. Bill of Rights that directly concerns the decision of punishment that is entirely removed from the authority of state officials: the right to a jury trial. The sixth amendment provides that “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and

district wherein the crime shall have been committed.”¹⁵ To attain a conviction, a jury of six to twelve jurors must unanimously agree that the defendant is guilty. As of *Ramos v. Louisiana*, a case decided by the Supreme Court in 2020, both state and federal criminal trials require unanimous guilty verdicts for conviction.¹⁶ If jurors are not unanimous, a mistrial is declared, and the defendant is given a new trial. Jury deliberations are private, and jurors may vote to convict or acquit based on reasons they see fit.

Trying citizens via jury trial opens the door to jury nullification, which typically refers to the practice of voting not to convict because of moral opposition to the law(s) being enforced. Refusal to convict can also be motivated by opposition to punishing a specific defendant or opposition to the actions of the criminal justice enforcement system in the case at hand or in general.¹⁷ There are also other forms of nullification that may have nothing to do with the morality of the case—a juror may vote a certain way because it is a Thursday, the prosecutor was ugly, or the defendant has the same name as their cousin. Forms of nullification present a worry for the rule of law because they make the application of law private, personal, and inscrutable.

Here, we can spell out what the rule of law objection to jury nullification that Gowder mentioned would look like. For Gowder, the rule of law requires regularity, meaning that the coercive power of the state is only used when “authorized by good faith and reasonable interpretations of preexisting, reasonably specific, legal rules,” but jury nullification in any form violates these conditions as well as public rules required by the publicity condition.¹⁸ Nullification also means casting aside the legal theory given by a judge, robbing the public of our ability to “impute reasons to the jury.”¹⁹ If we cannot enter a trial with the expectation that a jury will convict or acquit based on the evidence at hand, we also run the risk of lowering the degree that the state fulfills the generality condition—like in historical cases of all-white juries refusing to punish racial violence.²⁰ Approaching the role of juror as anything other than a fact finder based upon the evidence means basing

13 U.S. Constitution, amend. V.

14 “Jury Nullification,” Legal Information Institute, Cornell Law School, last modified October 2022, https://www.law.cornell.edu/wex/jury_nullification.

15 U.S. Constitution, amend. VI.

16 *Ramos v. Louisiana*, 590 U.S. __ (2020).

17 Brenner M. Fissell, “Jury Nullification and the Rule of Law,” *Legal Theory* 19, no. 3 (2013): 219–20, 10.1017/s135232521300013x.

18 Gowder, *Rule of Law*, 12.

19 Gowder, “The Rule of Law and Equality,” 585.

20 Richard Lorren Jolly, “Jury Nullification as a Spectrum,” *Pepperdine Law Review* 49, no. 2 (February, 2022): 344, 10.2139/ssrn.3194805.



the application of law and punishment on private and inscrutable rules, violating both publicity and regularity at minimum.

Jury nullification lacks the public signaling function that lawbreaking actions like riots and property destruction can have on the state. While lawbreaking actions can increase the degree that the state upholds the rule of law by pushing the state to adopt measures that improve the extent to which they uphold Gowder's three conditions, jury nullification does not fulfill this feature to the same scale. Because jury deliberations are private, an acquittal signals to the public and the state that the jury did not believe sufficient evidence was provided to convict the defendant. Even in the most egregious cases, where the defendant is obviously guilty and provides no defense yet is acquitted anyways, signaling is still unlikely to occur given the indeterminacy of the reasoning behind the jury's decision and the private nature of most criminal trials.

A concrete example of the ambiguity that surrounds "not guilty" verdicts is the trial of O.J. Simpson. After the trial, many African American citizens believed the vote was correct and Simpson was innocent, while many white citizens believed that the majority African American jury committed jury nullification and acquitted Simpson because he was African American, despite his obvious guilt.²¹ Both perspectives have merit. The prosecution made numerous errors, like asking Simpson to try on the bloody glove found at the scene, but several jurors acted in ways that imply that race played a factor in the jury's decision. One example of this occurred after the trial, when one juror raised his fist in solidarity to Simpson. Whether or not the Simpson trial was an example of jury nullification, it is difficult to say whether it influenced legal change despite how publicized it was. The disparity between the political efficacy of jury nullification and riots/protests becomes clearer when advances made by jury nullification are compared to the advances that protests and riots have made, not only for the legal rights of minorities in the U.S., but for the establishment of more just and general states around the world throughout history.

This view does have the unfortunate consequence of creating situations in which rule of law duties conflict with moral duties. Considering jury trials are the final part of a criminal prosecution, without jury nullification there may be no other way to remedy someone being punished for unjust or immoral laws. The South,

21 Sylvester Monroe, "Black America Was Cheering for Cochran, Not O.J." *Andscape*, June 16, 2016, <https://andscape.com/features/black-america-was-cheering-for-cochran-not-o-j/>.

both during the eras of slavery and Jim Crow, again works as an example of this. Most abolitionists/anti-racists would find it morally abhorrent to vote to convict someone under the Fugitive Slave Act or a law that required African Americans to sit at the back of a bus. On the other hand, however, extreme racists who consider lynching morally permissible and anti-lynching laws unjust could refuse to convict those who lynch African American or other people advocating for civil rights. If enough of the population declared they would refuse to convict under a law they disliked, said law could not be enforced at all outside of cases like plea bargaining or bench trials.²² Such a law would be effectively invalidated, regardless of its moral status.

Therefore, in the interest of securing cooperation from other groups who one would like to have sanctioned for their wrongdoings, all parties invested in the rule of law should set aside concerns about the morality of law to the legislative sphere.²³ Legislatures and referendums are fundamentally more democratic makers of law than juries due to their publicly accessible and widespread representative nature. Juries, on the other hand, are made up of a small number of people, and their machinations are highly confidential. While it is tough to choose between the rule of law and moral duties, the anti-nullification view does have practical benefits. It ensures morally good laws like anti-lynching laws are justly upheld, even by those who oppose them on moral grounds, leaving the moral side of legal matters to public realms where decision making processes are hopefully more democratic. Though this may lead to some regrettable moral outcomes, it seems better on the whole than allowing jurors to take the law into their own hands when they see fit.

In this essay, I have made two main arguments. First, Gowder is correct in his assertion that the rule of law does not require citizens to obey the law and Murphy's counterargument fails due to the porous relationship between the state and citizens in the Jim Crow South. Second, because the relationship between the state and citizens does not hold in jury trials and jury nullification violates the publicity and regularity conditions, the rule of law requires that jurors avoid jury nullification and approach criminal trials merely as fact finders.

22 Plea bargains represent the majority of criminal convictions (over 90 percent), so such a law could still be meaningfully enforced.

23 There is a potential game-theoretic issue here due to the potential free-rider problem of jurors who privately commit jury nullification but disavow jury nullification publicly.



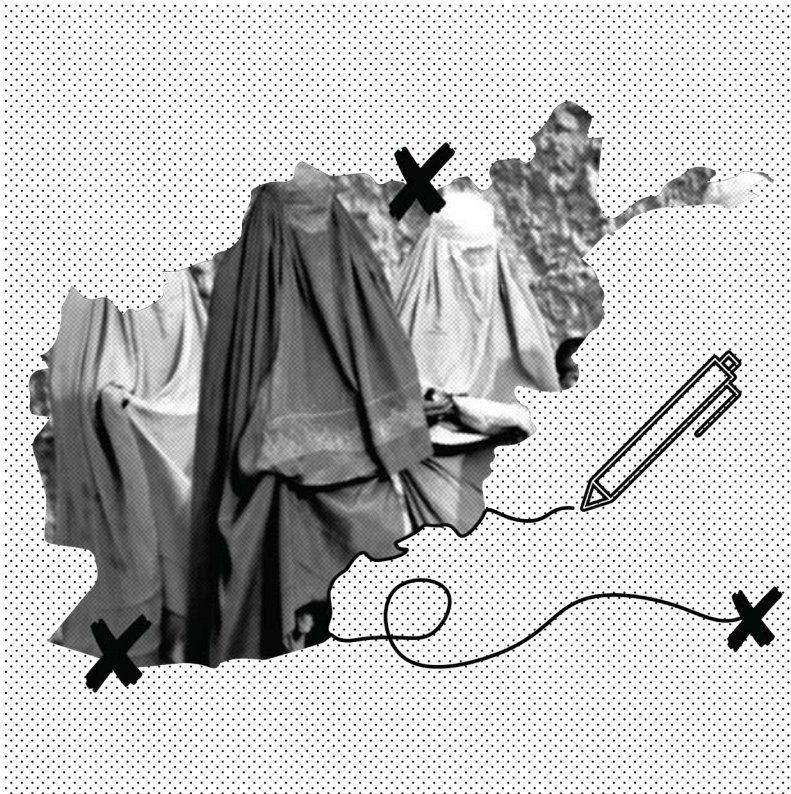


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ON THE GOVERNANCE OF WOMEN'S RIGHTS IN TALIBAN AFGHANISTAN: A Public Good No More



MOLLY GRAHAM

ABSTRACT

Since the Taliban resumed political power in Afghanistan in August 2021, their total application of strict Sharia Law has demanded global attention. This paper theorizes that, in pursuit of social order, the Taliban has enacted a civil religion to justify their complete reversion of women's rights as a public good. I examine Afghanistan's social contract through the political philosophies of Thomas Hobbes and Jean-Jacques Rousseau and suggest why the intended social order has not materialized. In conclusion, I depict the erosion of women's rights as a matter of structural injustice and incite critical reflexivity towards our responsibility for global justice.



Public goods are entities that provide benefits to all members of society and are protected or granted freely through the provision of the state.¹ In this essay, I will discuss the contemporary threat to the public good of women's rights in Afghanistan under the Taliban, who assumed power in August of 2021. I utilize the arguments of Thomas Hobbes² and Jean-Jacques Rousseau³ to argue that the “myth” advanced by the Taliban of religious homogeneity—a unifying moral basis that justifies the forceful relinquishment of personal liberty to achieve social order—is not achievable, as modern Afghan society has sampled liberal democracy.⁴ Therefore, this sovereign's social contract that makes the public good of women's rights immoral under Rousseau's principle of civil religion is refuted by the sovereign's subjects.⁵ If citizens must be the “author” of laws to be bound by them, Afghan society is destined to ceaseless anarchy through female rejection of state disempowerment.⁶

First, I will describe my interpretation of women's rights as a public good and examine how the arguments proposed in Hobbes' *Leviathan* theoretically justify the state erosion of this public good by providing current examples. Next, I will analyze the moral implications of the coalescence of human rights and state power, arguing that if human rights are a recognized moral code to which secular states are held accountable, then we must come to acknowledge the normative dissonance that occurs when a religious state—in enforcing a common morality antithetical with our standard of morality—revokes the public good we enshrine. Then, I introduce Rousseau's thesis of civil religion and consider how it intersects with the governance style of Taliban Afghanistan. Finally, I examine why the Taliban's application of Rousseau's civil religion has failed to produce the consequent social order theorized by Rousseau, considering both historical governance structures and the rapid globalization of Afghan society in the period of U.S. liberal democracy nation building.

1 Jason Fernando, “What Are Public Goods? Definition, How They Work, and Example,” *Investopedia*, last modified March 20, 2022, <https://www.investopedia.com/terms/p/public-good.asp>.

2 Thomas Hobbes, *Leviathan* (Oxford: The Clarendon Press, 1651).

3 Jean-Jacques Rousseau, *The Social Contract*, trans. Maurice Cranston (New York: Penguin Publishing Group, 1998).

4 Borrowing its definition from Tralau (2010) as “powerful mobilizing ideas, true or false” Johan Tralau, “Thomas Hobbes, Carl Schmitt, and three conceptions of politics,” *Critical Review of International Social and Political Philosophy* 13, no. 2-3 (June 2010): 261-74, 10.1080/13698231003787737.

5 Rousseau, *The Social Contract*.

6 Hobbes, *Leviathan*, 136.

The foundational importance of gender equality and women's rights as public goods is endorsed by their inclusion the United Nations Sustainable Development Goal to achieve gender equality and empower all women and girls. I consider women's rights in Afghanistan to be an impure national public good based on Samuelson's primary definition, as women's rights do not satisfy both criteria required in a pure public good: non-rivalry and non-excludability.⁷ Rights are non-rivalrous in nature, as one individual's use of the good does not diminish the capacity of others. Yet, they are only non-excludable, and consequently a pure public good, in theory. Indeed, women's rights are managed as a club good, as in Afghanistan (and internationally) they are highly excludable in their social acceptance and enforcement, as women continue to oppose systemic gender-based oppression in their fight for universal installation of their rights.

Both Hobbes and Rousseau promote the role of shared ideas in influencing an individual's willingness to abide by the sovereign's social contract—enabling order, social cohesion, and law-abiding behavior. For Hobbes, it is the shared belief in the depravity of the state of nature that compels self-interested individuals to sacrifice their freedoms to an absolute authority for their security.⁸ Hobbes states in *Leviathan*, his seminal work of political philosophy, that competition, distrust, and the pursuit of glory all create a state of nature embodied by a “war of all against all.”⁹ Thus, driven by fear of death, and desire for comfort, individuals will rationally concede their personal liberties and allow a common power to “act with impunity” in punishing deviants.¹⁰ This shared “myth” that the state will generate a civil order providing protection and shelter from the basic state of humankind is what Hobbes argues mobilizes an aggregation of obedience to a social contract—the contents of which citizens may not unanimously approve of.¹¹

7 Paul A. Samuelson, “The Pure Theory of Public Expenditure,” *The Review of Economics and Statistics* 36, no. 4 (November 1954): 387-9, 10.2307/1925895.

8 Tralau, “Three Conceptions of Politics,” 261-74.

9 Andy Owen, “The Privilege of Absurdity: How Afghanistan Will Prove Thomas Hobbes Wrong,” *Culturico*, October 5, 2021, <https://culturico.com/2021/10/05/the-privilege-of-absurdity-how-afghanistan-will-prove-thomas-hobbes-wrong/>.

10 John Anthony Long, “Thomas Hobbes's *Leviathan*: A Study in Interpretation” (Thesis, The University of Montana, 1962), 64.

11 Tralau, “Three Conceptions of Politics.”; Long, “Thomas Hobbes's *Leviathan*,” 64.



Rousseau proposes the alternative concept of a civil religion as the powerful idea that compels individuals to consent to the sovereign's social pact, thus generating a civil order. For Rousseau, the state of nature is not “nasty, brutish, and short”¹² as advised by Hobbes, instead he describes humankind as “noble savages.”¹³ In Rousseau's theory, self-interest is only one of two principles of the human soul—the second being pity.¹⁴ Rousseau is pessimistic that our rational self-interest is sufficient to encourage social solidarity under a political order.¹⁵ Thus, to sacrifice our liberties in a social contract, Rousseau suggests that we must “be bonded to our fellows by a genuine sense of moral unity” rather than simply out of fear of death.¹⁶ It is the necessary task of the lawmaker to provide this sense of moral cohesiveness through a civil religion, yet one which Rousseau provides little advice beyond the five principles which are “permissible and even mandatory for the sovereign to insist” upon.¹⁷

The present social contract in Afghanistan embodies the same gender apartheid policies as when the Taliban first ruled Afghanistan in 1996–2001.¹⁸ The common power's disregard for the public good of women's human rights increases the level of sacrifice demanded of female subjects to enter the social pact. For example, a woman's right to health is jeopardized amid a pandemic, as she now requires a male chaperone, a mahram, to receive healthcare provision.¹⁹ Similarly, the right to freedom of movement—a key facilitator for rights of other kinds—has been revoked as women cannot travel abroad, or in some instances leave their house, without a chaperone.²⁰ Moreover, there

12 Hobbes, *Leviathan*, 97.

13 David Braybrooke, “The Noble Savage: Jean-Jacques Rousseau, 1754–1762,” *Review of The Noble Savage: Jean-Jacques Rousseau*, by Maurice Cranston, Cambridge University Press, September 2, 2013.

14 James J. Delaney, “Jean-Jacques Rousseau (1712–1778),” *Internet Encyclopaedia of Philosophy*, accessed February 9, 2023, <https://iep.utm.edu/rousseau/>.

15 Christopher Bertram, *Routledge Philosophy GuideBook to Rousseau and the Social Contract* (London: Routledge, 2004), 126, 10.4324/9780203480373.

16 Bertram, *Philosophy GuideBook*, 126.

17 Bertram, *Philosophy GuideBook*, 185.

18 “Women in Afghanistan: The Back Story,” *Amnesty International UK*, November 24, 2022, <https://www.amnesty.org.uk/womens-rights-afghanistan-history>.

19 Zahra Nader and Nargis Amini, “The Taliban Are Harming Afghan Women's Health,” *The Fuller Project*, March 2, 2022, <https://fullerproject.org/story/afghanistan-taliban-healthcare-restrictions-women/>.

20 “Taliban Ban Afghan Women from Traveling Outside Without a

has been a rapid rejection of the right to education as most girls' secondary schools are now closed.²¹ Yet, despite these draconian measures which rob women of dignity and agency, Hobbes' thesis stands that because the state of nature is so abhorrent, relinquishing any level of autonomy to achieve social order is desirable.

A central component of Hobbes' political theory is the relationship between a citizen's authorship of the political covenant and their obligation to obey it. Obedience to the “absolute authority” is obligatory once the state achieves the ill-defined task of elevating civilization beyond the state of nature. According to Hobbes' thesis, the sovereign cannot injure its subjects because citizens must be the author of the laws for them to be binding. This freedom is completely negated, given Hobbes' supposition that “every particular man is Author of all the sovereign doth.”²² For this reason, scholar Johan Tralau contends that Hobbes has an “implosive conception of consent” by suggesting subjects bear responsibility for the constituent elements of the political covenant through everyone's role as its author.²³ A Hobbesian view of modern Afghanistan places the authorship of rights violations onto the oppressed women “consenting” to the covenant.

This duality of authorship exposes a core theoretical shortcoming of applying Hobbes' work to the empirical example of Taliban Afghanistan. Hobbes proposes that an individual's deliberate reason causes a voluntary sacrifice of personal liberties for the security offered by the social covenant.²⁴ However, as the Taliban acquired power through authoritarian assumption and maintained this power through state violence, their sovereignty is now not a consequence of active citizen consent. For example, the Taliban have increased door-to-door searches,²⁵ creating an atmosphere of fear that incited the burning of books and

Male Companion,” *Rukhshana Media*, February 27, 2022, <https://rukshana.com/en/taliban-ban-afghan-women-from-traveling-outside-without-a-male-companion>.

21 Heather Barr, “Afghan Women Watching the Walls Close In,” *Human Rights Watch*, March 1, 2022, <https://www.hrw.org/news/2022/03/02/afghan-women-watching-walls-close>.

22 Hobbes, *Leviathan*, 136.

23 Tralau, “Three Conceptions of Politics,” 264.

24 Owen, “Privilege of Absurdity.”

25 Ruchi Kumar and Hikmat Noori, “Taliban Launch Raids on Homes of Afghan Women's Rights Activists,” *The Guardian*, January 20, 2022, <https://www.theguardian.com/global-development/2022/jan/20/taliban-arrest-afghan-womens-rights-activist-witness-says>.



destruction of personal items.²⁶ Furthermore, reports of gender-based violence have intensified. For example, The Fuller Project reports two women were forced out of a clinic, to which they had brought a sick infant, and physically assaulted with rifle butts “when the Taliban understood the two women were not accompanied by men.”²⁷ As the Taliban’s means of acquiring power is inconsistent with Hobbes’ understanding of consent, the common power cannot assume that civil order will be a logical consequence—a contradiction which may explain the continual unrest in Afghan society since the turnover of power.

Although once *Leviathan* status is achieved, by whatever means, Hobbes proposes the authoritarian case that sovereigns must “act with impunity,”²⁸ as a requirement of civil life is to “[obey government] decisions, even if they seem to have been made unwisely.”²⁹ Therefore, the Taliban is granted an omnipotent moral superiority to determine the boundaries of “just and unjust” through civil law, including the distribution of women’s rights as a public good.³⁰ Under Hobbes’ philosophy, all consenting citizens must conform to the *Leviathan*, regardless of agreement. By demanding universal aggregation of obedience, Hobbes does not account for the disproportionate sacrifices certain population cohorts must make. Eleanor Curran’s interpretation of *Leviathan* agrees that “the subjects. . . hold no rights against the sovereign,” illustrating how Hobbes justifies the Taliban’s system of structural violence in which women are powerless to dissent.³¹

Therefore, I propose Hobbes’ distinction between the key features of *Leviathan*—absolute authority of state and conditional obedience of citizens—should be extended beyond the original interpretation as binding once society is raised out of the state of nature. Instead, I believe that entering the political covenant in our modern epoch should be conditional on whether the common power actively recognizes the public good of human rights.

26 Fereshta Abbasi, “In Afghanistan, Burning Our Past to Protect Our Future,” *Human Rights Watch*, March 2, 2022, <https://www.hrw.org/news/2022/03/01/afghanistan-burning-our-past-protect-our-future>.

27 Nader and Amini, “Women’s Health.”

28 Long, “Thomas Hobbes’s *Leviathan*,” 64.

29 Long, “Thomas Hobbes’s *Leviathan*,” 64.

30 Long, “Thomas Hobbes’s *Leviathan*,” 73.

31 Eleanor Curran, “Can Rights Curb the Hobbesian Sovereign? The Full Right to Self-Preservation, Duties of Sovereignty and the Limitations of Hohfeld,” *Law and Philosophy* 25, no. 2 (March 2006): 244, 10.1007/s10982-005-8757-1.

Modern political philosophy presents four key principles that might be thought to justify state policies limiting individual liberty: the harm principle, the offense principle, legal paternalism, and legal moralism.³² Specifically, legal moralism makes the empirical claim that a common morality is the basis of social cohesion.³³ In liberal nations, human rights are the organizational principle of our common morality. The concept of human rights integrates morality (or religion) with the secular world as they form a universal moral code to which the state, defined as “the sole embodiment of a secular order,” is held accountable.³⁴ The Taliban’s approach to governance, however, seeks to build social cohesion around the common morality of Sharia.

Directly translated as “the correct path,” Sharia refers to the divine guidance that Muslims follow to live a righteous life.³⁵ Islamic law is derived from the human interpretation of this immutable counsel from God. Through the implementation of Islamic law, Sharia values organize and govern Muslim societies, providing the means to resolve conflicts among individuals and between the individual and the state.³⁶ Nevertheless, due to the diversity of personal Sharia interpretation, such that “on any legal issue, there are ten different opinions,” a government’s specific Islamic laws often incite debate.³⁷ Western legal regimes are broadly critical of the implementation of strict Sharia law, centering on its common hostility towards democracy, the rights of women and LGBTQ+ people, and its promotion of corporal punishment and religious persecution.³⁸

The Taliban’s belief in the infallibility of their interpretation of Sharia facilitates *Leviathan*’s abusive project to achieve civil order. If a common ethos is foundational to social order, then the

32 Alan Wertheimer, “Liberty, Coercion, and the Limits of the State,” in *The Blackwell Guide to Social and Political Philosophy*, ed. Robert L. Simon (Oxford: Blackwell, 2002), 43.

33 Wertheimer, “Limits of State,” 54.

34 Nikolas Kosmatopoulos, “Toward an Anthropology of ‘State Failure’: Lebanon’s *Leviathan* and Peace Expertise,” *Social Analysis* 55, no. 3 (December 2011): 134, 10.3167/sa.2011.550307.

35 Kali Robinson, “Understanding Sharia: The Intersection of Islam and the Law,” *Council on Foreign Relations*, last modified December 17, 2021, <https://www.cfr.org/background/understanding-sharia-intersection-islam-and-law>.

36 M. Cherif Bassiouni, “Islamic Law - The Shariah,” *Middle East Institute*, January 24, 2012, <https://www.mei.edu/publications/islamic-law-shariah>.

37 Robinson, “Understanding Sharia.”

38 Robinson, “Understanding Sharia.”



sovereign is justified in exercising its monopolization of violence to demand an aggregation of obedience. Though the concept of a common morality aims towards peace, “summum bonum in a civil state,” critical scholars have refuted this belief.³⁹ Long argues that it is the coalescence of the “civil and religious states” that poses a fundamental theoretical problem.⁴⁰ He rejects Hobbes’ proposal that conflating religious priorities with the social pact, as in the case of Afghanistan, can incentivize citizens to sacrifice their liberties for the promise of peace and tranquility. If we accept Long’s argument that legal moralism causes Hobbes’ political covenant to be muddled beyond identification, then contemporary Afghan society where religion and power are inextricably intertwined is destined to ceaseless disunion.

Under Taliban rule, there is intentional exclusion of women from the discussions that determine the content of the political covenant, refuting Hobbes’ theory of inherent authorship.⁴¹ This is particularly impactful when the interpretation of the texts foundational to the common morality (such as the Qur’an) are hotly debated, yet a single interpretation is enacted into law.⁴² The Qur’an states that a woman should not reveal her beauty to men beyond her family.⁴³ Depending on the sovereign’s demarcation of morality that has been shaped by discussion and education, this ambiguous clause could have led to the normative implication that women should simply dress and behave modestly in public—as is the case for many millions of Muslims worldwide.⁴⁴ This norm of modesty is policed by group members as the collective values of modesty and obedience within Islam allow for social pressure to be sufficient in upholding the norm. However, in Taliban Afghanistan, the male echo chamber holding power has determined that their interpretation must be enforced via state sanctioning. The

39 Long, “Thomas Hobbes’s Leviathan,” 109.

40 Long, “Thomas Hobbes’s Leviathan,” 109.

41 “Afghanistan: Taliban Deprive Women of Livelihoods, Identity,” *Human Rights Watch*, January 18, 2022, <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>.

42 Robinson, “Understanding Sharia.”

43 Lisa Beyer, “What Sharia Law for Afghan Women Under the Taliban Might Mean,” *Bloomberg*, last modified August 17, 2021, <https://www.bloomberg.com/news/articles/2021-08-17/sharia-law-for-afghan-women-what-that-might-be-quicktake#xj4y7vzkg>.

44 Jacob Poushter, “How People in Muslim Countries Prefer Women to Dress in Public,” *Pew Research Center*, January 8, 2014, <https://www.pewresearch.org/fact-tank/2014/01/08/what-is-appropriate-attire-for-women-in-muslim-countries/>.

implementation of a policy in the newly segregated universities requires women to wear an abaya (a figure-shrouding outer garment), a niqab (a cloth covering the face apart from the eyes), and gloves to hide their hands, evidencing how the Taliban uses state violence to impose new norms upon a population.⁴⁵ In this way, the concept of common morality is a complete misnomer, as an unrepresentative cohort has determined and enforced a standard of social morality to which all Afghans must relinquish their liberty.

I further discuss the viability of religious homogeneity as a mode to obtain social order through the thesis of civil religion proposed by Rousseau in *The Social Contract*. In contrast to the Hobbesian assumption that people’s stance as rational egoists will lead them to succumb their liberties to avoid the state of nature and achieve social order, Rousseau believes that social cohesion and patriotism, though they may be rationally justified, cannot simply be based on an appeal to citizens’ rational self-interest.⁴⁶ Rousseau argues that social order resides in the concordance of specific internalized values and norms, therefore acquiring homogeneity in society is crucial. A civil religion encompasses a set of values that are, according to Rousseau, “permissible and even mandatory for the sovereign to insist” upon.⁴⁷ Therefore, if the five principles of a civil religion are met within a state regardless of internal contradictions, Rousseau predicts social order will follow.

The structure of civil religion is not intrinsically anti-woman, proven in the propagation of women’s rights as a public good in Afghanistan from the 1950–70s under a strict religious regime. A 2012 U.S. report written by William Byrd emphasized that a “gradual and evolutionary approach” towards social progress in these decades led to increasing equity in female education, including coeducation in Kabul University, and changing social norms.⁴⁸ For example, educated women stopped wearing traditional headcovers. Though Byrd argues such evolutionary reforms were chiefly concentrated in the cities, these gradual advancements show

45 Azadi Frud Bezhan, “Taliban Imposes New Dress Code, Segregation Of Women At Afghan Universities,” *RadioFreeEurope/RadioLiberty*, September 6, 2021, <https://www.rferl.org/a/taliban-dress-code-segregation-women/31446726.html>.

46 Bertram, *Philosophy GuideBook*.

47 Bertram, *Philosophy GuideBook*, 185.

48 William Byrd, “Lessons from Afghanistan’s History for the Current Transition and Beyond,” *United States Institute of Peace*, September 12, 2012, <https://www.usip.org/publications/2012/09/lessons-afghanistans-history-current-transition-and-beyond>.



that a civil religion can move with social progression and support the distribution of public goods. Likewise, from 2003–05, several women's rights organizations consulted with Islamic religious leaders on the content of the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women.⁴⁹ The report uncovered that the religious leaders found no inherent contradictions between the stipulations of these documents and key Sharia principles, meaning there is no necessary conflict between the protection of this public good and the furtherment of a system of legal moralist governance.

The Taliban's application of a "civil religion" in the return to Sharia Law has failed to produce the social order theorized by Rousseau. I believe that modern Afghanistan contradicts Rousseau's thesis because, unlike historical societies where unfaltering acceptance of such dogmas were possible, the imposition of postmodernism and Western "liberal democracy" has incited an identity crisis in Afghan values. To analyze the contemporary dilemma of why enforcing strict Sharia law upon civil society will not lead to an aggregation of obedience, we need to appreciate both historical governance structures and the rapid globalization of Afghan society since the nation building project led by the United States.

Byrd argues that in the fifty years after 1933, Afghanistan experienced "stable and [effective]" governance, anchored in a balance between traditional local powers and a weak, yet centralized, monarchical state.⁵⁰ The principles of civil religion were of greater collective and individual importance in value systems at that period. However, extensive conflict after 1978 dissolved the finely tuned relationship between the state and local governance structures.⁵¹ Afghanistan entered an era of state-building by international administrations seeking to impose liberal democracy, neoliberalism, and cultural hegemony.⁵² According to Byrd, mass urbanization and greater connectivity with the rest of the world during the period of occupation (2001–21) familiarized a younger

49 Anastasiya Hozyainova, "Sharia and Women's Rights in Afghanistan," *United States Institute of Peace*, May 28, 2014, <https://www.usip.org/publications/2014/05/sharia-and-womens-rights-afghanistan>.

50 Byrd, "Lessons from Afghanistan's History."

51 Byrd, "Lessons from Afghanistan's History."

52 Aidan Hehir, "Hyper-Reality and Statebuilding: Baudrillard and The Unwillingness of International Administrations to Cede Control," *Third World Quarterly* 32, no. 6 (June 2011): 1073–87, 10.1080/01436597.2011.584722.

generation of Afghans with a world of possibility and connection.⁵³ Over these twenty years, Afghan society grew accustomed to a sovereign contract that prioritized democracy and personal liberty. This all changed in August of 2021 when Afghanistan experienced a rapid reversion to Sharia Law. These restrictive policies are now attempting to govern a highly heterogeneous society with distinctly different values than the last period of Taliban rule. Therefore, social acceptance of a civil religion and the consequent female disempowerment is increasingly unlikely.

Afghanistan's current leadership is adopting the common morality of Sharia Law as a civil religion to justify their complete reversion of women's rights as a public good. I disagree with Hobbes' proposed theory of social order because women are not the author of the Taliban's social pact, and thus have no obligation to it. Likewise, I disagree with Rousseau's argument that adopting a civil religion will lead to an aggregation of obedience and consequently, social order, as modern Afghanistan encompasses a variety of normative orientations. I believe Hobbes fails to acknowledge that the Leviathan does not require the same sacrifices from all its subordinates, which leads to a potentially violent sanctioning of individuals for whom the price of conformity is too high. The Taliban also reproduces Rousseau's myth, an ideology which assumes order will prevail once religious homogeneity is achieved. Yet persistently "deviant" women threaten this order by continuing to defy (through sheer bravery and strength of will) those who reject this crucial public good.

Viewing the Taliban's takeover through the prism of Iris Marion Young's social connection model depicts the erosion of women's rights as a matter of structural injustice, the responsibility for which none of us have resolved.⁵⁴ Young assumes that our responsibility for global justice "derives from belonging together with others in a system of interdependent processes."⁵⁵ Each one of us who believes that international women's rights are an issue worthy of attention, and ultimately realization, must consider the condition of our personal parameters (power, privilege, interest, and collective

53 Byrd, "Lessons from Afghanistan's History."

54 For Young, "[responsibility] does not imply finding the agent at fault or liable for a past wrong, but rather refers to agents' carrying out activities in a morally appropriate way. Iris Marion Young, "Responsibility and Global Justice: A Social Connection Model," *Social Philosophy and Policy* 23, no. 1 (January 2006): 119.

55 Young, "Responsibility," 119.



ability) for addressing our global responsibility.⁵⁶ To this end, we must be reflexive towards our western epistemological assumptions of what is considered progress.⁵⁷

Our ambitions to pursue global justice in women's rights must not succumb to the western universalism of past state-building endeavors. We cannot be self-deluded in our historical desire to establish political communities that mirrored "an illusory self-image" of Western states.⁵⁸ We must recognize any engrained epistemologies that suggest the West has a divine right to "spearhead progressive change" to promote an "idealised vision of liberal democracy," a congruence of the ideology of political liberalism with the logic of neoliberal capitalism.⁵⁹ America has reified the Western state to embody order, peace, and justice. Yet each of these qualities persist in contextually meaningful ways beyond the scope of the West. Neither a reversion to Sharia law, as shown in the multiplicity of interpretation worldwide, nor the adoption of a civil religion are antithetical to the promotion of women's rights. In Taliban Afghanistan, however, the inherent and equal worth of a woman's life, opinions, and contribution to society must be recognized. Though it is not for the West to propose what Afghani women should deem an adequate and appropriate social contract, I believe that such an entity will not materialize until women are afforded authorship. The cost of deviance from the imposed order has a high price: physical assaults, social isolation, and uncertainty.⁶⁰ Yet, the cost of obedience is even higher: a complete relinquishing of personal empowerment and dignity. Thus, from a position of global responsibility, we each must advocate and lobby for the bottom-up political participation of Afghani women in their own destiny. This means giving precedence and visibility to local community leaders, allowing their stories to shape the intention of our advocacy, and remaining critical of top-down hegemonic approaches, which often conflate the promotion of women's rights with the ideals of modernization. Without the active participation of women in the formation of the social contract, Afghan society is destined to ceaseless anarchy.

56 Young, "Responsibility," 127.

57 Owen, "Privilege of Absurdity."

58 Hehir, "Statebuilding," 1074.

59 Hehir, "Statebuilding," 1074.

60 Kumar and Noori, "Raids on Homes."

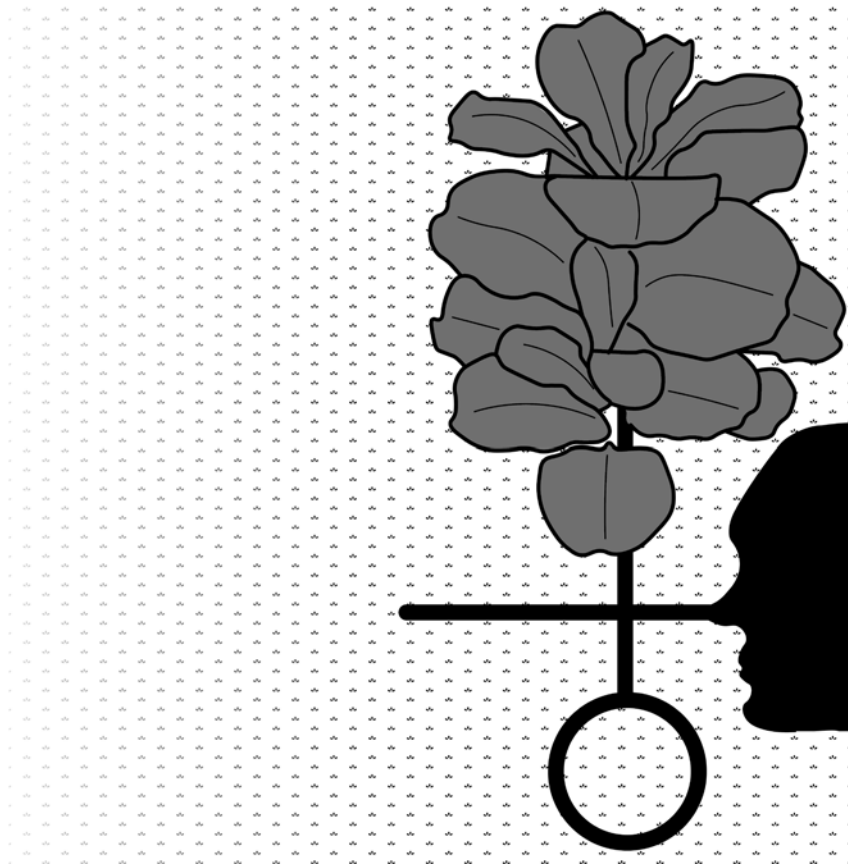


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LANGUAGE, FEMINISM, AND RACISM: A Meeting with Jennifer Saul, PhD



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ABOUT JENNIFER SAUL, PhD



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STANCE: We wanted to start by asking some general questions about your experience in philosophy. You've written a lot about the gender inequality that is present in the world of philosophy; what has made you stick with philosophy despite being aware of that inequality?

DR. SAUL: Hmm! I think one of the most important things was that my first job at the University of Sheffield was in an incredibly supportive department. Even though I was the only woman for a lot of the time, and then one of two women for a very long time, people were just wonderful. They wanted to do philosophy rather than show off, try to one-up each other, embarrass the speaker, that sort of thing. They were very supportive of my doing feminist things; they encouraged me to do it. For the mid 90s, it was a very unusual kind of place.

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The second year I was there, the person who taught the first-year political philosophy class left, and so my head of department said, "Oh, let's replace that with a first-year feminism class instead." And I didn't even fully realize what a radical thing that was to do. Most places didn't have feminism classes for another twenty years, let alone replace

first-year political philosophy with feminism. That was a shocking proposal, but they just thought: "Jenny's does feminism; students will like that." So, I think being in that environment made a huge difference. I could see that the world out there was bad, but I was in a good place. And it also meant that I could spend a lot of time trying to help people who were in less good places. It made me feel happy and secure enough that I could put a lot of energy into that.

STANCE: We also find your work in philosophy of language fascinating. Philosophy of language is often portrayed as a purely theoretical, academic discipline, but you have worked a lot on the connection between the philosophy of language and its actual practical applications. What led you to focus on that connection as opposed to just the academic side of it?

DR. SAUL: It took me quite a while to figure out how to do that, or even that I wanted to. I started out genuinely interested in questions like, "How does reference work?" I was into reading Russell and Frege and Kripke on names and descriptions, propositional attitude reports, all that very traditional stuff. I genuinely liked that. I'm not into it very much now, but I can get nerdy with it occasionally. But even

then, one of the things that I was very interested in, although it was not anything anyone took very seriously at the time, was pragmatics. What happens when we actually use one of these sentences? What happens when actual human beings, with all the weird stuff going on in their heads, talk to each other? I remember trying to pursue that, and people just thought, "Wait—why? How? What is anyone doing with that?" They called it the pragmatic wastebasket. So, I didn't really do anything with that for a while.

I got asked to teach feminist philosophy because I listed it as an area of competence—and that wasn't because anyone had ever taught it to me. It was because I was a feminist, and I thought I'd like to learn about it. So, I started doing some feminist philosophy as a result of teaching it. And then people started getting interested in the semantic/pragmatic distinction in the philosophy of language. And a lot of the time, I felt like people were talking past each other. That's what got me thinking, can we tie this to something that actual people genuinely care about, rather than just "I have this very strong intuition about the semantic content!" Wait—how can you have an intuition about the "semantic content"? [Laughs] This is a made-up theoretical term! So, I got interested in seeing how this played out in the lying/misleading distinction. That was my first bit of moving into the world and seeing what happens with philosophy in the world. As probably comes through from my papers, I also have an unhealthy obsession with American politics. I'm originally from Ohio. So, I just kept being obsessed with that. That led me to a real interest in racist and conspiracist speech more recently.

STANCE: On that note, we have a question about figleaves. You identify figleaves as tools that are used to shield speakers and invalidate criticisms. Do you think that using figleaves is more of an ethos appeal or a logos appeal?

DR. SAUL: Those aren't terms that I use. People have different definitions of those terms, so can you tell me how you understand them?

STANCE: I was considering logos as purely logical, nothing else. The ethos appeal would be more trying to appeal to a person's own views and emotions about the topic.

DR. SAUL: Then it would be definitely be ethos, I think. But I'm a little bit hesitant in terms of trying to appeal to their emotions about the topic. I think it is appealing to their emotions, but sometimes in a way that they may not be fully conscious of or are



fully comfortable with. But I think logic also comes into it, because if you start thinking, “Well, he said he’s not racist; racists would never say that!”, that’s not a good argument, but it’s an argument that people might make. So, I think both of those things can be going on.

STANCE: Figleaves are used typically in discriminatory conversations, and there’s a lot that language has to do with discrimination. We were curious about your thoughts on the recent popularity of hypermasculine media, especially podcasts, and how you think that language plays a special role in that media.

DR. SAUL: I have not done any listening to hypermasculine podcasts. Are you thinking of things like Joe Rogan, that sort of thing?

STANCE: I think that would be a good example.

DR. SAUL: I haven’t actually thought specifically about podcasts as a medium. I’ve done a lot more thinking about internet speech than podcasts. I think some of the same devices will come up a lot. You get Joe Rogan just asking questions a lot, and I think that’s a really important figleaf. I’d like to hear your thoughts about it.

STANCE: It seems to us that there’s a lot of different types of silencing going on. A lot of these podcasts will have female guests, and then just shut down over and over again what they’re trying to get across.

DR. SAUL: Oh, okay; that’s interesting. This how social media works: I haven’t seen these things, ‘cause they’re not being shared in my feeds. But it’s also interesting if those clips where women are being shut down are something that people are really liking and wanting to share. I think it’s a really disturbing symptom of something that’s out there, but it can also perpetuate the idea that shutting down women is a good thing to do, and here is how to do it. So, I think you’re right to worry about it.

STANCE: That lends itself very well to our next question, which is about cancel culture and social media. You talk about how people in academia are often fearful about what they’re saying: they fear of losing their positions, especially professors who aren’t tenured. How much do you think that the rise of cancel culture and the prevalence of social media has affected that fear and caution around what is said?

DR. SAUL: It depends a lot on how the term “cancel culture” is used. I think there are a lot of problems with the way that it’s used,

because it’s usually used as a way of criticizing people on the left who call attention to racism, homophobia, or transphobia. There are cases where it gets very nasty. But a lot of times, people respond with the “more speech remedy.” Free speech advocates traditionally say they that you should fight bad speech with

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more speech. But now, when a person fights, say, transphobia speech, people on the right say, “What are you doing? You’re cancelling me! You’re silencing me!” when all that was said was perfectly legitimate criticism. So, I’m not fond of the phrase ‘cancel culture’, because I think it’s used to silence legitimate criticism when there isn’t actually any cancelling going on. Now, that’s not to say it never happens, but I’m more worried about what I think happens to people who are precariously employed. My focus is people in academic jobs who are precariously employed. And right now, I think what we should be most worried about are the states that have passed laws saying that you can’t talk about gender or critical race theory, and that you could lose your job for doing that. Usually that’s not called “cancel culture,” but I think that’s actually the much greater threat to academic freedom, and the much scarier thing. So, I’d want to use different terms to discuss it, perhaps.

STANCE: In that same arena, you’re touching on how the things commonly referred to as “cancel culture” are actual issues. So, considering the fact that microaggressions in academia are very real, what kind of structures do you think need to be in place to allow for people to address those microaggressions, or any harmful language, without the fear surrounding saying what needs to be said?

DR. SAUL: I feel like this is kind of a theme; maybe this is the sort of thing that just happens when you talk to a philosopher of language. I worry about the many ways that a term gets used. I think a weird thing happens with “microaggressions,” that it gets used to describe really tiny, innocent things that can cumulatively have a negative effect on somebody; it also gets used to describe things that look like horrible harassment. I think the latter is a misuse of the term “microaggression.” Microaggressions are meant to be small and unintentional.

There’s a really tricky thing in an academic environment. You want people in the classroom to feel safe and secure and able to think,



study, and learn. But part of that is that it's okay to make mistakes sometimes. They can make a mistake, learn from it, and move on. If you're teaching something like philosophy of sex, or feminism, or philosophy of race in particular, these are issues that, for the most part, people are really quite uncomfortable discussing and don't have much practice discussing. The kind of content warning I give in the classroom is: "These are the kinds of issues we're gonna be discussing. You need to all bear in mind that people in this room or their loved ones will have personal experience with these things. But you also need to bear in mind that we're not very good at talking about this. And we're all gonna make mistakes." I've found that so far, I've been pleased with how it works, setting it up in that way. Sometimes, somebody will say something kind of clumsy, sometimes false or ignorant, and I'll see people start to tense up—but we move forward by saying, "Okay, well, maybe we could put this in a different way. Is this what you're trying to say?" Or:

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"Here's the problem with phrasing it that way. Let's talk about it." And everybody's able to learn, communicate, and make some progress in thinking through the issues without that terrible fear that can come: "What if I say something wrong?" Some of the fear that comes from cancel culture is legitimate. You know that you might offend other people because this is hard stuff to talk about. If you care about other people, you're gonna be nervous .

And in some of these areas, for example, in trans issues, the terminology that people want to use has changed very rapidly over the last ten years. I know somebody who, because an article in a book can

take three to five years to come out, for whom the terminology changed while waiting to go to press! And now, someone who's very careful to use terminology to show that she supported trans people, is using terminology that makes people suspicious that she doesn't support trans people! So, I think being nervous about that is legitimate, and we need people to feel comfortable making mistakes and helping each other to get better at this stuff. At the same time, if somebody's actually being harassing, you need to do something about that. If you tell somebody "Look, this is bad; you can't use that word, it's really a bad one," and they keep using that word, then that needs to be taken seriously.

STANCE: So, there's been a recent change to Twitter . . .

DR. SAUL: I [Laughs] I've been enjoying watching Twitter!

STANCE: . . . Twitter now requires that satirical posts be flagged as not factual. How does that fit in with additional speech?

DR. SAUL: I find this issue fascinating. I'm currently editing a volume about online speech, and we have a wonderful paper about satire online from Amanda McMullen. She's saying that for something to be satire, you can't make the fact that it is satire explicit; it just isn't satire anymore if you're explicit about that. So, in this case the "additional speech" makes a kind of speech impossible. And if we think satire's a valuable thing, then we're taking away something valuable.

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STANCE: While we're on the topic of recent events, we have to ask you about *Roe v. Wade*. In one of the chapters of your book, *Feminism: Issues and Arguments*, you talk a lot about abortion, and you cover a lot of the arguments that were common during the time you wrote the book. Do you think that any of those arguments or any arguments that have become prevalent since you wrote that, have played an especially important role in overturning *Roe v. Wade*? Or, if not, why do you think it was overturned in the first place?

DR. SAUL: I think I'm cynical enough to think that what actually played a role in overturning *Roe v. Wade* was just brute political power, that the people who wanted to overturn *Roe v. Wade* worked incredibly hard for thirty years, cared about the Supreme Court, voted for people who would put the right justices on the Supreme Court, prioritized abortion, and eventually got what they wanted. I think it's been a real problem for people on the left. The people who wanted to protect abortion rights would say, "Ugh! Don't tell me about the Supreme Court. I'm just so disappointed in the Democrats; I'm not gonna vote for them just for the Supreme Court." There was a sense that this couldn't possibly be taken away. And I think that was really naïve—not just because it could be taken away, but also because it was being taken away. Very early on, state funding for abortions was taken away so that you had to have a certain amount of money to be able to get an abortion, and then as time went on, in many states, it became rarer and rarer to be



able to find a clinic: you would have to travel, and waiting periods were imposed. All of those things should have been taken more seriously over the years. But I think the anti-choice side fought very effectively for what they wanted, and they got it. I don't think it was arguments.

STANCE: That is definitely true; they got what they wanted.

DR. SAUL: Yeah, but they lost the Senate! [Laughs] And that was probably because of Roe!

STANCE: Another controversial topic in feminism is pornography, and you've written a lot on pornography. You often disagree with some other feminists on it. We are curious on where your personal views fall, and whether they change based on context.

DR. SAUL: My personal view is that there is terrible and exploitative stuff going on in many industries, and pornography is perhaps especially prone to that. So I think that is a real problem. I strongly support efforts to unionize in all areas, including sex work. I think that pornography perpetuates a lot of really damaging thoughts about what sex should be like and what women and men are like. I think that most mainstream movies and sex education classes also perpetuate really damaging ideas about those things. So, it's not that I think anything's great, but I don't think that exclusive focus on pornography makes sense; I don't think banning it makes sense. I think, as with all these other areas, I think improving it makes sense, and unionizing.

STANCE: Many people think that concepts and words are connected, right? If you don't have a word for it, you probably don't have the concept. So sex education proliferates certain concepts, makes it easier to think certain thoughts, and makes it harder to think other thoughts, particularly with regard to how many sexes and genders there are, and what the identities of the people in the sex education classes might be. We can envision lots of high schoolers and middle schoolers being told that, because of language choices, who they are doesn't exist. What kind of concepts and words should be in such a class?

DR. SAUL: That's a great question. I think one problem with such classes is, as you said, if you tell people that there are only men and women and that no other genders exist, then that is really shutting out a bunch of people's experiences. And so, I think you need to

talk about the diversity of experiences that there are. If you talk to people in trans communities, it's not like there's a settled vocabulary that everybody agrees on. But I think talking about this as an area where thoughts and concepts are evolving is important. But I also think there's some really damaging concepts that get taught in sex education, like the concept of purity, and the idea that having sex makes you impure, less important, less valuable, less good. I think those are extremely damaging concepts that are taught in some sex education classes.

I think this view is starting to show up a bit in the philosophical literature, that exclusively focusing on consent gives people some of the wrong ideas about sex. Of course, I think consent is incredibly

important. But the term "consent" is usually used when you're agreeing to something that you don't particularly think you're gonna enjoy. You consent to a medical procedure; you don't consent to a piece of cake, right? I think consent is a pretty low bar, and usually it's one person wanting something, and the other person is saying, "Oh, okay. I'll go along with it." Maybe that's where the legal bar should be, but I think we should want more from our sex lives than that. I think you should only have sex with people who are enthusiastic about

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having sex with you and think it would be fun! And then consent becomes a weird term to use. So, I think sex education classes should teach people that sex is meant to be fun; if it's not fun, that doesn't mean that something terrible happened or that something's gone horribly morally wrong. But it seems like you should be striving for it to be fun. And the only way to be sure it's fun for everybody is if you check in with each other about whether it's fun or not. So, I think it's an idealistic idea, unfortunately, for sex education classes to teach you that sex should be fun, and that you should check in with each other to make sure that it's fun. But I think that would do a lot to help people have better lives and more ethical sex. Like I said: I think consent is necessary and where the legal bar should be, but I think people should be wanting more than that.

STANCE: It's becoming more common for sex workers to turn to sites like OnlyFans. It seems like the discourse surrounding virtual sex work is getting more mainstream. How do you think the use of these sites is changing our cultural perception of sex work?



DR. SAUL: So, I don't actually know statistics on whether virtual sex work is becoming more common. Certainly, it strikes me as a much safer kind of sex work than one where somebody else is in charge of it, and you're out on the street. So, I think if you're gonna

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be a sex worker, having a bit more independence and safety is a good thing. I think it would be far better if there were better and more secure jobs for everybody. I'm not gonna say that we're living in a utopia where people are doing sex work online; it may be better than the other options that they have. But I think capitalism has a lot to answer for, and we need better workers' rights in all areas.

STANCE: Something that goes hand-in-hand with women in sex work is sexual harassment. In your article "Stop Thinking So Much About Sexual Harassment," you propose that people should consider the best possible actions for the resolution of sexual harassment, but that there's not an obligation to intervene. Do you think that there is a point at which people should intervene, or is that never the case?

DR. SAUL: What I meant is that there is no single obligation that everybody has, because some people are in vulnerable positions where it wouldn't be safe for them to intervene. But I think that there are very strong obligations on people who are in positions where they can do something safely, and I think everybody has the obligation to reflect on what they can do in their position—and some people will find that they do have obligations. So, I never meant to say, "Oh, we should all just let it happen." I think the obligation that a full professor has is much more significant than the obligation that an undergraduate student has for dealing with sexual harassment in a department. Does that make sense?

STANCE: Yeah. So, everybody has the obligation to consider what they might do, and then doing so might lead you to realize that you do have an obligation to intervene?

DR. SAUL: Yes, but there's not a simple rule for that, right? It'll be a matter of what you are in a position to safely do. And that's partly physical safety, but not just physical safety.

STANCE: Got it. We have one last question before we leave the explicitly feminist world. You mentioned that you don't think philosophy can

do a good job of defining terms related to gender and race, like the term "woman." Despite that being the case, do you think there are any philosophical attempts to define the word "woman" that are at least partially successful, or maybe useful in argumentation?

DR. SAUL: So, I don't remember saying that I don't think philosophy can do it; that's a bit more pessimistic than I am. [Laughs] I think that definitions are hard, and philosophers will always find clever objections to definitions, but I don't think that philosophers won't ever make progress on things. One thing that I've been really interested in over the last few years is the work of people like Katharine Jenkins, Robin Dembroff, and Matthew Cole, who have all argued that there are multiple kinds of things we might want to do with our gendered terms. And I think this pluralism is a really important move. Talia Bettcher talks about this as well in her recent work.

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We need to describe the bad ways that gendered terms are sometimes used. Trans-exclusive uses of the word "woman" are extremely common. "Woman" has a trans-exclusive meaning. And I think I used to be uncomfortable with saying that, because I wanted to get the result that, no, it doesn't. I struggled with that a lot. I've become increasingly convinced that to understand what's gone wrong in the world, we have to say, "Look, that's what the word means for a bunch of people, that's describing the language that they use." To say that trans women are not "women" is a problem with the language that they use, and we need to criticize it. We can also then think, "How do we want our language to be?" What we can notice is that there are other resistant communities, and Bettcher discusses this, where the word "woman" is used in a much more fluid way, and gendered terms are much more complex and inclusive. We can see that there are other legitimate usages. We need to accept that the only way we're going to decide is by asking, "What's morally and politically better?" We can talk about what we'd like our terms to be in a better world. And I think it's useful to draw those distinctions between the planning-for-a-better-world kind of use of the word "woman" and what we'd like it to be, and the ways that it's used now, some good, some bad. And then we'll want to argue for, say, a trans-inclusive definition of "woman" by saying, "Look, here are the terrible consequences of using the definition you're using, and those are bad and you should care about it—and you're wrong if you don't care about it." And so, we need to change the way we use the word.



So, I think there's been this move over the last few years in the philosophical literature where a lot of people who are anti-trans—or alternatively, some of the people who haven't kept up with the literature—are assuming that the trans-inclusive literature is still saying that there's only one meaning of 'woman' and it includes trans women. I think instead, people were saying, "No, actually, there are

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multiple meanings. And some of them we like, and some of them we don't, and that's the way language is." I think doing philosophy helps us draw some of those distinctions in a way that's really useful. Although, you'll notice that I've avoided giving you a definition that I think is great, because I don't have one. [Laughs] I think there's also some really interesting work arguing that we shouldn't be trying to get a definition of it.

STANCE: I think part of that whole discussion is drawing distinctions, right? And you've done a lot of work with distinction, especially with the lying/misleading distinction.

DR. SAUL: [Laughs] I *am* a philosopher!

STANCE: That'll do it! In your book you establish that lying and misleading are morally equivalent when all factors are the same, but that most people believe that misleading is morally preferable to lying. So, if people actually accepted that lying and misleading are morally equivalent, how do you think that their behavior would change?

DR. SAUL: That's a great question. I'm bad at accepting it myself, as I say in the book. I still carefully construct misleading utterances, rather than lie when I feel the need. And every now and then I remind myself, no just go ahead and lie! So I think that we'd have more lies and fewer carefully constructed utterances that mislead. I'm not sure whether that would be a better world; I'm not sure if it would make any difference.

STANCE: Is moral equivalence unique to lying and misleading? Are there other ways of speaking where there are moral equivalences?

DR. SAUL: That isn't something that I've thought much about . . . I do work on is racist speech, ranging from the very blatant to the much more concealed. If you're talking about the deliberate use of, say, a racist dog whistle rather than an obviously racist term, I might be inclined to say it's equally bad. But unintentional use is going to

be different. It's very hard to unintentionally use the n-word. On the other hand, it's very easy to unintentionally use dog whistles. The intentional use of non-slurs can be just as bad and damaging. Sometimes more so.

STANCE: Do you think the intentional use of dog whistles and the intentional use of figleaves are morally comparable?

DR. SAUL: That's a good question, I haven't really thought about it. They are both really manipulative devices designed to get some deniability. They might be, but I'm not sure.

STANCE: To follow up, as Frankfurt says in *On Bullshit*, misleading is about your enterprise: that you want people to believe that you care about true and false when you don't—whereas lying and misleading both seem to be intentional about a particular belief. It seems to me that there are many types of misleading. Is that right? Is it true that all kinds of misleadings are fodder for judgment? I can partially agree that the categories are not inherently better or worse than another, but there seem to be trends. Are there trend lines? Is misleading usually worse, or something like that?

DR. SAUL: So, a few things. One thing I disagree with Frankfurt on is that I think there can be boldfaced bullshit, where the bullshitter doesn't try to conceal what they're up to. It's something that authoritarians will often use, people like Trump, Bolsonaro, and Putin, because they want you to know that they don't care about the truth and that they're just gonna say what they want to say regardless as a sort of exertion of power. I know that's not what you asked about; I just couldn't help but add that.

I would hold firm on the idea that it's gonna be down to what your motivation is, what the context is, and what the effects are for both lying and misleading. For example, I think it's common for people to try to appear more confident than they are in a job interview: a completely reasonable thing to do. I think you can lie about it or mislead, either one is fine. You can say, "I'm really confident that I can do this job and be really good at it" and it's a lie because you're actually insecure. That's just what you say in a job interview. Even if you carefully constructed your words to mislead, it wouldn't make any difference—except in very specific contexts, like in a court of law where there are perjury penalties attached to lying but not to misleading.

STANCE: We actually had a question about the exception regarding moral equivalence in the courts, where misleading is okay, but lying



is not. Is that imbalance only because of the punishment you might receive?

DR. SAUL: No, I wouldn't want it to be for that reason. That wouldn't really ground a moral distinction, though it might give you a good practical reason to avoid lying. This imbalance is because of

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the way that the court works, what the explicit expectations are. One thing is that everybody in a courtroom understands that there's a rule that we've all agreed to: it's okay to mislead, but it's not okay to lie. So, it's violating an agreement if you lie rather than mislead. You can have that same dynamic come up if you have an open relationship and your partner says, "It's okay to sleep with other people. I don't really wanna know about it, but don't lie to me. It's okay to mislead me." Then you're violating that agreement if you lie rather than mislead. It matters that you're violating an agreement, and I think that's part of it.

In court, it's not a normal conversation. Things are very, very structured. The witness is required to answer precisely the question they are asked, and if the highly trained lawyer asks the usually far less trained witness a poorly phrased question, and they answer that question in a literal but misleading way, that's on the lawyer. It's the lawyer's job to ask the question in a way that's going to get the right answer. If the lawyer fails to follow up, then I think that's their fault. One of the classic examples of perjury is of a KKK member who attempted to light a cross on the lawn of an interracial couple, but they couldn't get it to light. In court when they were asked if they had ever burned a cross on the lawn of an interracial couple, they said no. And they were tried for perjury afterwards. Their job was to answer the question that they were asked; they were explicitly told not to answer some other question. The lawyer presumably knew what had actually happened in that incident and failed to follow up with, "Yeah, but have you ever tried?" So, I think there's a clear demarcation of responsibilities in a courtroom that we don't have in ordinary life that has a moral impact on things.

STANCE: If the witness thought that lying and misleading were the same, would that make them the same for that specific person in the court?

DR. SAUL: [Laughs] That's a fun question, but I don't think it would. Even though I think they are morally the same, I can tell the difference between the two and I know that the rule of the courtroom is that I have to say stuff that is literally true. Honoring that agreement is important not only because it's important to honor agreements, but because we want courts to function by the rules they're supposed to function by. So, I think there are a lot of good reasons for taking the rules of the court seriously.

STANCE: Awesome. We just have a few more questions for you before we let you go. The first one is about an article you wrote in 2017 called "Philosophy in Danger" where you talk about how philosophy will either disappear as we know it or be expanded with the addition of a new branch of philosophy. Do you think that we've headed in either one of those directions?

DR. SAUL: I think it's too early to say. There's been a wonderful explosion in applied philosophy: it's growing constantly, and more people are trying to do politically relevant stuff to attend to all the urgent matters that are happening in our world. I think that's fantastic. New people are coming into the field, and people who had previously done only traditional stuff are realizing, "There are some urgent things that I need to look at."

At the same time, there's still budget cutting going on. Just last week, the Birkbeck College at the University of London announced that it was going to cut half of its philosophy department, a department devoted exclusively to providing evening classes for part time students while also being a top research institution. It's a uniquely wonderful thing—but academic precarity continues to grow. Governments are not funding education, and in fact, they're threatening education in new ways. I'm really concerned by these laws against teaching gender and critical race theory. So, while there are more and more philosophers trying to do really wonderful things, and there are also some really scary countervailing forces. I think both forces are continuing, unfortunately.

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STANCE: We've talked a little bit about gender inequality in academia, specifically in the field of philosophy, and you just talked about how you've noticed an explosion in applied philosophy. I'm planning on pursuing a graduate degree in philosophy after I graduate from Ball State, specifically in applied ethics. Do you have any advice for people like me, women in particular?

DR. SAUL: My biggest advice is to visit the places you are accepted and talk to the current students to find out what it's really like. I am very disconcerted that people still sometimes get the advice to find a list and go to the highest-ranked program that accepted them, because that's not what you want. It would get you some prestige—which is useful to have—but what you want is a program where you can be supervised by somebody who knows your topic, is supportive and helpful, and who you get along with. You want to be in a place where you can have fun talking philosophy with your peers, rather than competing with each other, fighting, and being horrible. You want to be in a place where you'd like to live, where you can be happy to do philosophy and enjoy it. Those sorts of things are far more important than looking at some list and seeing which ranks the best. I think the rankings are absolute bullshit. So, I think the strongest advice would be to seriously look at what's going to help you flourish as a person and a philosopher, and make sure you get those things in a university. The best way to find that out is to visit and talk to the students.

STANCE: Thank you! You have a very specific niche for yourself, and I'm curious if you have any advice for undergraduates to find their own niche.

DR. SAUL: I think it takes time; you won't find it immediately. I spent a long time doing strictly traditional philosophy of language, and then getting into feminism, but never seeing a way to connect them. It took quite a while before I started seeing how I could connect these things. I had a good time along the way, but I like what I'm doing even better now. It can take time, and it can change. I think an important thing would be to follow your interests. People will tell you to go to the highest rank school or do this topic because this is what's hot right now, and that's what you should do. And that's a terrible way to go about choosing it. I think if you're going to grad school, you're gonna have to spend a lot of time thinking about whatever you decide to do your dissertation on. It's important to be interested in it and choosing a topic because you think it might be good for getting you a job is not a way to find topic that interests you.

STANCE: We just have one last question for you, and arguably it is our most important question. While we were preparing for this interview, we saw that you were a consultant for a zombie movie. Can you tell us what movie it was?

DR. SAUL: [Laughs] It never got made!

STANCE: No! What happened?

DR. SAUL: If it did get made though, the world would be a beautiful place. This film student contacted me, and he was writing a script. He didn't tell me what the script was, but he contacted me because he wanted the main character to be a woman in philosophy, and he'd found the blog I ran, *What Is It Like to Be a Woman in Philosophy?* He wanted to interview me about that. He was this cool feminist guy, but he was really cagey about what the movie was. Eventually I managed to drag out of him that it was a zombie film. He thought that it was embarrassing, and that I wouldn't want to talk to him, but I was thrilled! He didn't know that zombies are a legitimate philosophical topic, and specifically an interest of mine. So, I was able to tell him, "Okay, this is what she should do." Once I knew that, I was able to suggest all kinds of things. I had a great time talking to him, but not many film scripts get made into movies, and, as far as I know, this one hasn't been made. But if it were made, the hero would've been a woman in philosophy who kills all the zombies at the American Philosophical Association, at The Smoker, which is the horrible event where job candidates have to make conversation with departments that might hire them over really bad beer. It would've been so good. Yeah, maybe someday.

HE DIDN'T KNOW THAT ZOMBIES ARE A LEGITIMATE PHILOSOPHICAL TOPIC, AND SPECIFICALLY AN INTEREST OF MINE.

STANCE: Thank you so much for talking to us, it was very interesting.

DR. SAUL: I will say, I keep thinking about your question about figleaves and I do not know how to categorize them as logos or ethos. I think they're gonna be some kind of blend.

STANCE: Was there anything you thought that you might wanna talk about or expected to talk about that we haven't?

DR. SAUL: Yeah! I could tell you about what I'm doing now, because I just started a really cool new project last week. I got funding to do a project with a social media researcher and a political speech



I BECAME INTERESTED IN THE WAY THAT DOG WHISTLES AND FIGLEAVES FUNCTION TO NORMALIZE CONSPIRACIST SPEECH AS WELL AS RACIST SPEECH.

researcher about figleaves online. We are looking at places like Twitter and trying to develop a methodology for identifying figleaves. I think that figleaves play a role in making people more comfortable with speech that violates important norms, similar to racist speech or wildly conspiracist speech. One of the things I predict is that in a mainstream venue, a message will spread better if it's got a figleaf attached. To take a topical example, "Paul Pelosi was attacked

by his gay lover. It wasn't a political attack at all; it was his gay lover." That message won't spread as well as, "I'm just asking questions about whether or not the man who attacked Paul Pelosi was his gay lover." In this project, we're going to be seeing if figleaves make a difference in which messages spread. I'm quite excited about teaming up with people who do empirical research.

STANCE: Is there a connection to conspiracy theories that's frontloaded into that?

DR. SAUL: Oh, that's right! I haven't published the stuff on conspiracy theories, so you don't know about it! I have a book which is half about racist speech and half about conspiracist speech. I became interested in the way that dog whistles and figleaves function to normalize conspiracist speech as well as racist speech. And by conspiracy speech I mean wild conspiracist speech. I don't mean thinking that there was a conspiracy to cover up Watergate, because there was. I mean, "Hillary Clinton drinks the blood of babies" kind of stuff. I think figleaves and dog whistles both play a big role in helping to spread these theories. If you look at what QAnon, they use lot of dog whistles to indicate their allegiance, like mentioning "the storm"—you'll see Donald Trump doing that as well. I've become interested in the way that both dog whistles and figleaves can spread norm-violating speech of more than one sort. There, I'm looking at racist and conspiracist speech. I think figleaves play a huge role in transphobic speech as well. I haven't written about that yet, but I'm planning to.

STANCE: That sounds super fun.

DR. SAUL: Also depressing! [Laughs]

STANCE: Well, I think we're done! Thank you so much.

DR. SAUL: Thank you so much! I'm so impressed by what you put into this interview, and I really enjoyed talking to you!



ARTWORK INDEX



SANJIAO HEYI AND TIBET

China's divisions of religion have resulted from unempathetic plays for power. Yet, the ancient history and teachings of such a vast culture cannot shed its diversity and resilience even if all that physically remains of these teachings are symbols.

ART BY BEN FUSCO



ADDRESSING CRIMES OF PASSION WITH THE DEEP-SELF VIEW OF MORAL RESPONSIBILITY

This piece represents the author's perspective that "our deeply held beliefs are embodied and expressed through one's intuitions and instincts." Illustrated by the woman's reflection, this deep-self view is believed to be a "fundamental part of ourselves."

ART BY EMMA WYNN



SHAPESHIFTING

While attempting to represent the ideas of "middle-ness," the mind is drawn to abstract concepts that almost feel unnatural. Ironically this is how nature and our reality exist. "Middle-ness" can be touched when we recognize an ever-changing reality.

ART BY BEN FUSCO



AUTISTIC STUDENTS WITHIN THE COMMUNITY OF INQUIRY

This piece comprises the infinity symbol, representing symbolic logic and the autistic community in addition to heads with exposed brains representing open-mindedness and the exploration of new pedagogies.

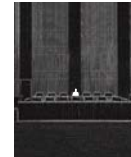
ART BY ASHLEIGH TOTTEN



ESCAPING SELF-SACRIFICE

This piece is meant to be delicate, showcasing the beauty behind the deep connection Black women have with themselves, others and their communities. Intertwined with servility is self-love as an act of resistance within existence.

ART BY ASHLEIGH TOTTEN



THE RULE OF LAW AND JURY TRIALS

The seemingly empty courtroom emphasizes the author's stance that there is a duality when it comes to whether or not citizens are required to obey the law. In relation to the Rule of Law, it is illustrated that jury members play a pivotal role in taking power from the "whims of the state."

ART BY EMMA WYNN



ON THE GOVERNANCE OF WOMEN'S RIGHTS

This piece represents how Afghan women are treated under the Taliban's enforcement of strict Sharia Law, where consent to the existing social contract is denied and human rights go unacknowledged.

ART BY ASHLEIGH TOTTEN



LANGUAGE, FEMINISM AND RACISM

This piece is meant to represent many concepts in Saul's work, specifically, Saul's "figleaves" concept combined with feminism and lying.

ART BY ASHLEIGH TOTTEN



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