



PROGRESSIVE YOUNG ARTIST AWARDS

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Contents

Needs and Human Rights 3

The Triumph and Tragedy of the Silent Sentinels 7

Keith Haring: Pop Art Visionary and HIV/AIDS Activist 33

A review of contemporary Gender Issues in the EU 61

An Examination of and Proposal for Personal Rights Management (PRM) 74

Psychological Differences Between Male and Female Sex Offenders 88

The constitutional rights of children 99

Critical Review of Sustainability Indicators 108

Needs and Human Rights

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The ideas of human rights and basic human needs are closely connected. Human rights – rights that apply for every person because they are a human – can be seen as rights to the fulfilment of, or ability to fulfil, basic human needs. These needs provide the grounding for human rights. ‘Behind human rights are freedoms and needs so fundamental that their denial puts human dignity itself at risk’ (Goldewijk & Fortman, 1999: 117). Basic human needs are whatever people require to be able to achieve a level of functioning that satisfies a given ethical conception of the acceptable minimum; such conceptions include, for example, human dignity, or the avoidance of serious harm. The needs implied by these conceptions typically include, in particular, basic levels of physical and mental health.

Galtung refines this picture in many ways. Not all needs correspond to rights, and not all rights correspond to needs. But a central set of human rights rest on basic needs. He warns that the traditional human rights approach connects better to survival needs and freedom needs, ‘needs that are more clearly threatened by deliberate acts of “evil” actors’, and for which we can more readily state norms in the form of rights that imply duties by specific actors. In contrast, various other needs ‘are more often impeded by “wrong” structures’ (Galtung 1994: 69). Here a post-traditional approach is required; ‘needs rather than rights direct us to look for causal factors rather than evil actors’ (ibid.: 55).

The concept of human rights forms in turn an essential partner to the discourse of basic needs. It provides an insistence on the value of each person, and a strong language of prioritization. These focus our attention and energies: ‘in adverse environments, the primary meaning of human rights is to make people aware of what is basically wrong’ (Goldewijk & Fortman 1999: 117). And when widely acknowledged as norms or legally recognized as instruments, rights form a major set of tools, legitimate claims, in the political struggles for fulfilment of needs.

Consider the example of the international debt of low-income countries. By the late 1990s many very poor countries paid more in debt service, largely to rich countries, than they spent on education or health. Typically their education and health budgets had been cut at the insistence of international financial organizations, after the countries had failed to service their debts following rises in oil prices and interest rates and other shocks. Sacrifice of the basic needs, the health and prospects, of millions of people in order to service debts to, directly or indirectly, far richer groups became unsurprising and normal in the 1980s and 90s. ‘Jubilee 2000’ campaigners for debt relief

achieved significant impact by showing how such cuts contravened the Universal Declaration of Human Rights (UDHR) endorsed by nearly all governments, including the debt collectors. The UDHR prioritizes access to education and health care. In welfare-states, when a family goes bankrupt no child is expected to lose access to basic education and health care in order for debts to first be repaid; this principle should apply for people everywhere.

A connection between conceptions of needs and human rights has long been proposed, but also for long not adopted as a standard formulation. One still encounters social science dictionaries in which adjacent entries on human needs and human rights contain no reference to each other's language. The two ideas have been primarily located in different disciplines and fora: rights more in the worlds of law and social movements, needs more within social and economic policy and planning. Added to this have been confusions around needs discourse, attacks on it by many libertarians and free-market advocates, and antagonism by some socialists and economists to rights formulations. In the past twenty years these obstacles have diminished and the fundamental connection of the two bodies of thought has become more evident, in work by for example Galtung, Gewirth and Waldron, without gainsaying the inevitable fuzziness in such concepts.

Rights are justified claims to the protection of persons' important interests, argues Gewirth. Such 'claim-rights' have this structure: Person/subject A has a right to object X against duty-bearer B by virtue of ground Y. For 'human rights' the proposed ground is that the objects X are requisites for being human in a morally acceptable sense. According to Gewirth they are 'the goods that are necessary for human action or for having general chances of success in achieving one's purposes by action'. Henry Shue refers similarly to 'basic rights', those which are necessary to enjoy all other rights. In normative needs discourse, they are basic needs.

The concept of need arises in three importantly different modes. First, 'needs' in explanatory theory are powerful underlying motives or drives. Second, needs in normative theory are justified priorities based on a 'relational formula': Person A needs object X (or an equivalent 'satisfier') in order (reason Y) to do or attain goal G which is a high priority in the relevant political community. Third, instrumental needs are the requisites (X) for G. Whether, in particular cases, object X brings fulfilment of a drive or motive is a matter for positive investigation. Whether object X really is required for achieving G is an instrumental issue for examination. Whether G is or should be a high priority is a matter for normative debate and political process.

Normative needs discourse thus has the same structure as claim-rights discourse. This can be obscured by failure to distinguish the three modes and also different levels in chains of instrumental and normative relations (Gasper 2004). Amartya Sen's categories of capability and functioning help us to discuss levels more clearly. Martha Nussbaum's

Women and Human Development (2000, Cambridge Univ. Press), proposes that many human rights are best seen as rights to basic needs seen in turn as basic capabilities to function. She argues that capabilities language has an advantage in not being felt as Eurocentric, but that rights language provides force and conveys respect for persons; and that using these languages together highlights respect for persons as choosers.

Sen holds further, in ***Development as Freedom*** (1999, Oxford Univ. Press), that political rights are important for not only the promotion and defence of need fulfilment, but for the processes of spec-

ifying needs. It is not true that needs discourse inherently presumes that persons are passive and materialistic and ignores them as active rights-claiming choice-making agents. Autonomy of agency stands as central principle in the prominent normative needs theory of Len Doyal and Ian Gough (*A Theory of Human Need*, 1991, Macmillan). The table uses the structure of their theory to compare ethics of capabilities, basic needs, and human rights. As argued by Penz, the three are closely connected and complementary not competitive.

	Basic Criterion	Requirements in order to fulfil the basic criterion (Needs level 1)	Required satisfier characteristics (Needs level 2)	Specific required satisfiers (Needs level 3)	Required preconditions (Needs level 4)
<i>In the categories of the capability approach and UNDP's 'Human Development'</i>	Priority functionings	Capabilities that are required to achieve the priority functionings	'Characteristics' of goods that are required to achieve those capabilities	The goods / 'commodities' that are required to provide those characteristics	The societal conditions that are required to sustain the supply of those goods
<i>Doyal & Gough's main formulation of human need</i>	Avoidance of serious harm	Health; autonomy of agency	Nourishment; housing; security in environment, work and childhood; health care, education, etc.	Vary according to geographical, socio-economic and cultural setting	Conditions concerning production, reproduction, cultural transmission, and political authority
<i>From Goldewijk & Fortman's formulation of human rights</i>	Dignity / non-humiliation, self-respect	Equality and freedom; or, equality and agency	Implications of Needs level 1 in this row	Implications of Needs level 2 in this row; vary according to...	

Galtung warns that institutionalization of human rights as a means towards fulfilling needs can become ineffective or counterproductive, due to the internal logics of the institutions involved. From recent South African experience, Hamilton holds that rights language bears too much the imprint of property rights, and ties fulfilment of priority human needs to the ability to expensively access a remote judicial system. That system takes existing property rights as the default case; claims against them must be demonstrated beyond reasonable doubt. Basic needs of the majority can in practice become downgraded by being stated in the same rights language as that of established property-holding, he argues. But they can be downgraded by not using rights language too. And a needs-rights conception can also influence and structure patterns of public provision, access and claiming in ways other than via the judicial system.

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The Triumph and Tragedy of the Silent Sentinels

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Introduction

In the 19th century, the majority of women held three main roles during their lifetime: mother, wife, and homemaker.^{1 2} But by the turn of the twentieth century, major forces both for and against women's suffrage dominated social influence, including the National Woman's Party (NWP), led by Alice Paul. A smaller section of the NWP, called the Silent Sentinels, led suffragist protests and were frequently arrested and placed in district workhouses where they were tortured.³ However, this tragic treatment of women later paved the way for triumph. After the public discovered the inhumane treatment of the suffragettes, they pressured the government to release these women.⁴ After their release, the suffragettes continued their activism until 1920, when the 19th amendment was passed, promising women's emancipation. The tragic sacrifice of the suffragette activists, specifically the torture of the Silent Sentinels, was crucial to women triumphantly gaining the right to vote.

Post-War/Pre-19th Amendment Women in Society

Before the passage of the 19th amendment, women were expected to embody a perfect example of the "republican motherhood".⁵ Women were deemed the more fragile sex, as they frequented the

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- 1 Carl F. Kaestle and Eric Foner, *Pillars of the Republic: Common Schools and American Society 1780-1860* (New York: Hill and Wang, 2006).
 - 2 Sue V. Rosser, *Women, Science, and Myth: Gender Beliefs from Antiquity to the Present* (California: ABC-CLIO, 2008), 62, <https://www.questia.com/read/123983048/women-science-and-myth-gender-beliefs-from-antiquity>.
 - 3 Nancy F. Cott, "Feminist Politics in the 1920s: The National Woman's Party." *The Journal of American History* 71, no. 1 (1984): 44. doi:10.2307/1899833.
 - 4 Doris Stevens, *Jailed for Freedom* (New York: Liveright Publishing, 1920), 110, <https://www.questia.com/read/55403710/jailed-for-freedom>.
 - 5 Robert E. Riegel, "Women's Clothes and Women's Rights." *American Quarterly* 15, no. 3 (1963): 390-401. doi:10.2307/2711370.

hospitals more than their spouses due to the “role set hypothesis,”⁶ and were considered “subordinate to men,” subjected to sexist laws.⁷ They did not have legal rights, including the right to vote or the right to own property. Women were mistreated systemically and institutionally, to the point where they were considered property that was to be passed from father to husband upon marriage.⁸ When women started to fight for their right to be included in civic society and politics, men likened these women to terrorists trying to ruin the very fabric of society.

History proved that this fight for justice would be hard to win. First, the activists had to convince people, including other women, to break away from the rigidly patriarchal social structure. Many people believed that women would just vote the same as their husbands, essentially rendering their votes meaningless and unnecessarily expensive.⁹ Some said that women were too occupied in their “womanly roles” that they were unable to keep up with politics.¹⁰ Others, from the more radical sectors, said that “without masculine direction or control, she is out of her element and a social anomaly -- sometimes a hideous monster.”¹¹ All this opposition to women’s suffrage made it difficult for the suffragettes to pave the path for their enfranchisement.

The Early Suffrage Movement and its Limits

Alice Paul was born to a Quaker family in Moorestown, New Jersey in 1885¹², and grew up to join the National American Woman Suffrage Association, formed by the Susan B. Anthony and Elizabeth Cady Stanton, two leading suffragists of the 19th century.¹³ Later, she formed the Congressional Party with Lucy Burns, which mainly focused on “lobbying for a constitutional amendment to secure the right to vote for women.”¹⁴ Finally, in 1916, Paul founded the National Woman’s Party (NWP), the sector of the women’s rights movement that has been the most credited with the passage of the

6 Stella R. Quah, “Gender Roles, Family Roles and Health Behaviour: Pursuing the Hidden Link.” *Southeast Asian Journal of Social Science* 18, no. 2 (1990): 51-69, <http://www.jstor.org/stable/24491671>.

7 Jill Elaine Hasday, “Contest and Consent: A Legal History of Marital Rape.” *California Law Review* 88, no. 5 (2000): 1383. doi:10.2307/3481263.

8 Courtney Hoffberger, “Nineteenth Century Reform Movements: Women’s Rights.” *Nineteenth Century Reform Movements: Women’s Rights*. http://www.umbc.edu/che/tahlessons/pdf/Nineteenth_Century_Reform_Movements_Womens_Rights.pdf

9 See Appendix B

10 J. B. Sanford, “Argument Against Women’s Suffrage,” (speech, California, June 26th, 1911,) San Francisco Public Library, <https://sfpl.org/pdf/libraries/main/sfhistory/suffrageagainst.pdf>

11 Miriam Gurko, *The Ladies of Seneca Falls: The Birth of the Women’s Rights Movement* (New York: Macmillan, 1974), p. 9. <http://people.loyno.edu/~history/journal/1984-5/donnaway.htm#14>.

12 Beth A. Behn, “Woodrow Wilson’s Conversion Experience: The President, the Woman Suffrage Movement, and the Extent of Executive Influence,” University of Massachusetts Amherst, 2004, 18, <https://scholarworks.umass.edu/cgi/viewcontent.cgi?referer=https://www.google.co.kr/&httpsredir=1&article=2447&context=theses>.

13 Allison Lange, “Suffragists Unite: National American Woman Suffrage Association,” National Women’s History Museum, last modified Fall, 2015, <http://www.crusadeforthetvote.org/nawsa-united/>.

14 “Alice Paul (1885–1977)” Center for American Women and Politics, last modified August, 2014, <http://tag.rutgers.edu/wp-content/uploads/2014/05/Alice-Paul.pdf>.

19th amendment.¹⁵ The NWP was considered one of the more militant groups in the fight for women's suffrage, since they achieved their concerns by "effectively command[ing] the attention of politicians and the public through its aggressive agitation, relentless lobbying, creative publicity stunts, repeated acts of nonviolent confrontation, and examples of civil disobedience."¹⁶

One protest strategy that the NWP used was picketing, or the action of silently holding up signs in front of the White House.¹⁷ The suffragettes argued that while Wilson's administration fought pretentiously to maintain democracy, they were preventing half of the country's population from participating in that democracy.¹⁸ These women who silently stood in front of the White House while holding banners of protest for the president and the world to see were named the "Silent Sentinels."¹⁹ By holding unique protests that effectively highlighted their plight, the Silent Sentinels diversified their tactics and held the interest of the public. For instance, on state days, such as Maryland day, all the picketers were women from Maryland.²⁰ On College day, each picketer wore emblems of the colleges they were from in order to represent them.²¹ On Teacher's Day, the women underlined the importance of women in educational professions by having them participate in the pickets.²²

In the beginning, the Silent Sentinels were not considered serious. Wilson even waved at the Sentinels as he passed them in his car.²³ However, when the First World War broke out, The NWP was one of the only organizations that continued picketing throughout WWI, even though most people believed that this human rights movement would end because of the war effort.²⁴ But while these women continued to protest, the public grew angry and deemed their passion for civil rights to be unpatriotic.²⁵ The women of the Silent Sentinels were arrested frequently and faced ever-increasing criminal punishment.²⁶ Soon, the women were tried and sentenced in public, usually charged a \$10 fine or 30 to 60 days in prison.²⁷

15 Thomas H. Neale, "The Proposed Equal Rights Amendment: Contemporary Ratification Issues," Congressional Research Service, last modified July 28, 2017, <https://lwnnc.org/wp-content/uploads/2017/09/2017-CRS-ERA-Ratification-Contemporary-Issues-7-28-2017.pdf>

16 "Tactics and Techniques of the National Woman's Party Suffrage Campaign," The Library of Congress, Accessed on December 7, 2018, 10, <https://www.loc.gov/collections/static/women-of-protest/images/tactics.pdf>.

17 "Suffragist Alice Paul Clashed with Woodrow Wilson," Public Broadcasting Service, accessed July 17, 2018, <http://www.pbs.org/wgbh/americanexperience/features/suffragist-alice-paul-clashed-woodrow-wilson/>, 1.

18 "Historical Overview of the National Woman's Party," The Library of Congress, Accessed January 13, 2019, 3, <https://www.loc.gov/collections/static/women-of-protest/images/history.pdf>.

19 "Suffragist Alice Paul Clashed with Woodrow Wilson" pg. 1.

20 Terence McArdle, "'Night of terror': The Suffragists Who were Beaten and Tortured for Seeking the Vote," *The Washington Post*, 2, last modified November 10, 2017, https://www.washingtonpost.com/news/retropolis/wp/2017/11/10/night-of-terror-the-suffragists-who-were-beaten-and-tortured-for-seeking-the-vote/?utm_term=.844815565c02.

21 See Appendix B.

22 Ibid.

23 "Historical Overview of the National Woman's Party," pg. 3.

24 "Women of Protest: Photographs from the Records of the National Woman's Party History," Apple: This Month in Business History (Business Reference Services, Library of Congress). Accessed August 30, 2018. <https://www.loc.gov/collections/women-of-protest/articles-and-essays/historial-timeline-of-the-national-womans-party/1918-to-1920/>.

25 Ibid. "Historical Overview of the National Woman's Party," pg. 4.

26 Belinda A. Stillion Southard, "Militancy, Power, and Identity: The Silent Sentinels as Women Fighting for Political Voice." *Rhetoric and Public Affairs* 10, no. 3 (2007): 409. <http://www.jstor.org/stable/41940153>.

27 Ibid. Steven, 359

Even though the punishments were serious, the suffragettes persevered until they were put into the same prisons as political prisoners.²⁸ On July 14, 1917, sixteen upper-society women were arrested and put on trial before district court Judge Alexander Mallowney.²⁹ The prosecutor argued that they violated the Espionage Act of 1917³⁰, an act that banned any untrue statements made about the government during the war, but the women countered his argument by asserting that their signs came directly from the quotes of President Wilson himself and were taken from a speech he made on the second day of April of the same year³¹. He had reportedly declared that the war America was fighting in was “for democracy, for the right of those who submit to authority to have a voice in their own governments.”³² Unable to go against the president’s own words and due to the fact that picketing was a perfectly legal activity in America, the women were sentenced to only two months in the district workhouse at Occoquan for “obstructing traffic.”³³ Other suffragettes and their male allies protested that this was an outrageous punishment for striking, and as a result the president released the women after a just six days.³⁵ However, the situation was quite different on November 14 of the same year. This day was dubbed the “Night of Terror” due to the dreadful actions of the prison guards of the arrested women.

The Horrifying Night of Terror

On November 14, 1917, suffragists inside the Occoquan Prison were protesting for their rights. The Occoquan Superintendent Raymond Whittaker, who had grown tired of trying to suppress the protest, threatened to end the picketing, even at the cost of these women’s lives.³⁶ On November 15, 1917, he showed that he was serious by using the force of guards on a new group of prisoners, one that contained many crucial members of the NWP organizers.³⁷ Women were struck, pushed, and thrown into their cells when they showed any type of resistance towards the Superintendent.³⁸ Dora Lewis, who was an executive member of the NWP and later became their national treasurer, was thrown against her iron bed in her cell, causing her to lose consciousness.³⁹ Her cellmate, Alice Cosu,

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- 28 Katherine H. Adams and Michael L. Keene, *Alice Paul and the American Suffrage Campaign*, (University of Illinois Press 2008,) 94, <http://www.jstor.org/stable/10.5406/j.ctt1xcpzj>.
- 29 Catherine J. Lanctot, “‘We Are At War And You Should Not Bother The President’: The Suffrage Pickets and Freedom of Speech During World War I,” Villanova University School of Law, 2008, 21, <https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1120&context=wps>.
- 30 *Espionage Act 1917*, s1, http://www.digitalhistory.uh.edu/disp_textbook.cfm?smtid=3&psid=3904.
- 31 Ibid.
- 32 President Wilson’s Declaration of War Message to Congress, April 2, 1917; Records of the United States Senate; Record Group 46; National Archives, <https://www.ourdocuments.gov/doc.php?flash=false&doc=61>
- 33 Debbie Robison, “Women’s Suffrage Movement Led to Occoquan Workhouse Imprisonment,” Northern Virginia History Notes. Accessed July 17, 2018. http://www.novahistory.org/Lorton_Womens_Suffrage.htm.
- 34 “The Trials of Alice Paul and Other National Woman’s Party Members:1917,” American Law and Legal Encyclopedia, accessed January 16, 2019, <http://law.jrank.org/pages/2806/Trials-Alice-Paul-Other-National-Woman-s-Party-Members-1917.html#ixzz5asBxtJFc>.
- 35 Ibid. Lanctot, 6.
- 36 Edwina L. Helton, *The American Suffragette’s Journey to Enfranchisement: From Seneca Falls to Ratification of the Nineteenth Amendment in Text and Photos*, (Meadowbrook Publishing, 2018,) 137.
- 37 Ibid.
- 38 Ibid.
- 39 Ibid.

mistook Lewis to be dead and suffered a heart attack.⁴⁰ Lucy Burns was handcuffed with her arms over her head and was left in that position for over a day.⁴¹ Many women suffered broken bones, lacerations, concussions, etc., but were denied medical treatment.⁴² Still, this did not deter the women from protesting.

Hunger Strikes and its Triumph

One of the main forms of protest the women suffragists took part in during their time at the Occoquan Prison was hunger strikes.⁴³ In early January, the women were using mainly passive forms of resistance; they signed petitions to demand rights to a lawyer, they demanded writing materials, and they objected to the inedible, pest-infused food they were given.⁴⁴ Yet, the workhouse officials disregarded the appeal.⁴⁵ Thus, the women protested even harder, which is how their sentences multiplied from a few days, to a few months, to six months.⁴⁶ The signers were moved to a district jail where even the meager privileges given in the workhouse were denied.⁴⁷ Unable to have their voices heard, the imprisoned suffragists pursued another tactic of opposition: hunger strikes. A hunger strike is a type of resistance where the participant denies food for as long as possible.⁴⁸ The main goal of this was to make the government recognize the suffragists as political prisoners rather than just some traffic violators, an acknowledgment that would be crucial in marking the women as serious rebels toward the government.⁴⁹

In the beginning, the prison released the protestors when they started their strike.⁵⁰ But fearing the public's mockery on the weakness of the justice system, President Wilson initiated force-feeding sessions.⁵¹ Force-feeding meant that the woman, usually called the "patient," was forcefully held down on a bed or chair by male guards.⁵² A rubber tube was then either forced down the dissenter's mouth or nose, often damaging the tender tissues of the nose and throat.⁵³ Sometimes, the tube was inserted wrongly, leading the food, a mixture of raw eggs and milk, to enter the lungs, which endangered

40 Ibid.

41 Ibid.

42 "1917 Suite: Silent Sentinels and the Night of Terror," *Black Bird* 17 no. 1 (2018), 3, <https://blackbird.vcu.edu/v17n1/gallery/1917-suffrage/intro-page-night-of-terror.shtml>

43 Ibid. Southard, 410.

44 Ibid. Stevens, 149.

45 Ibid.

46 Matthew Costello, "Picketing the White House," The White House History Association, last modified April 14, 2017, <https://www.whitehousehistory.org/picketing-the-white-house>.

47 Ibid. Stevens, 150.

48 Sylvia Hawranick, Joan M. Doris, and Robert Daugherty, "Alice Paul," *Journal of Women and Social Work* 23, no. 2 (2008): 190-196, Accessed July 17, 2018, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.850.2968&rep=rep1&type=pdf>.

49 June Purvis, "Suffragette Hunger strikes, 100 Years On," Last modified July 6, 2009, <https://www.theguardian.com/commentisfree/libertycentral/2009/jul/06/suffragette-hunger-strike-protest>.

50 Ibid.

51 Ibid.

52 See Appendix C

53 J. Price Williams, James W. McIntosh, and Ettie Sayer. "Forcible Feeding Of Suffrage Prisoners." *The British Medical Journal* 2, no. 2701 (1912): 907-08. <http://www.jstor.org/stable/25298861>.

the prisoner's life.⁵⁴ Many women report the torture to feel similar to being raped and abused, particularly because their body is held down by an overpowering physical force and because they are non-consensually forced into acts against their will.⁵⁵ We can see how forceful this torture technique was with Alice Paul's recollection of her instances of being force fed:

*"Twice the tube came through my mouth and I got it between my teeth. My mouth was then pried open with an instrument. Sometimes they tied me to a chair with sheets. Once I managed to get my hands loose and snatched the tube, tearing it with my teeth. I also broke a jug, but I didn't give in."*⁵⁶

The passage of the Cat and Mouse Act, formally known as the Prisoners Act, in 1913, by the British parliament aggravated this issue even more as many suffragettes, including Paul, frequented both Britain and America to spread the ideal of women suffrage in both countries.⁵⁷ This newly passed law, specially formed to target the hunger strikers, stated that prisoners too weak to complete their sentence would be sent home and then returned to the workhouse once they became stronger.⁵⁸ In many cases, this act lengthened the sentences of the suffragists, and some were force-fed more than 200 times.⁵⁹ These sessions did not just create short-lasting pain; many of the women suffered nosebleeds, bouts of vomiting, and gastrointestinal problems for years after their force-feeding experience.⁶⁰

At the Occoquan, basic hygiene was ignored completely.⁶¹ Rats were a common occurrence in the dank and unlit cells.⁶² The prisoners held contests on the number of maggots in their meals.⁶³ Additional intimidation strategies used by the guards included being denied visitors, not being allowed to receive mail, and being withheld the right of access to a lawyer. But worst of all, these women lost their human dignity.⁶⁴ Dorothy Day, a former Sentinel, explains vividly in her autobiography, *The Long Loneliness*, how the women were given access to the bathroom once a day in the morning where they had to relieve themselves in the presence of a male guard who kept watch and who would supply them with toilet paper and flush the toilet afterward. She recalls feeling "as though [she] was in a zoo."⁶⁵

54 William Cassels, "Forcible Feeding," *The British Medical Journal* 1, no. 2557 (1910): 50. <http://www.jstor.org/stable/25289108>.

55 Ibid.

56 "Alice Paul Describes Force Feeding" London, England, Dec-09, 1909, Manuscript/Mixed Material. <https://www.loc.gov/item/rbcmiller003904/>.

57 Prisoners (Temporary Discharge for Ill-Health) Act, 1913, § 1.

58 Ibid.

59 Megha Mohan, "Kitty Marion: The Actress Who Became a 'Terrorist'," *BBC News*, last modified May 27, 2018, <https://www.bbc.com/news/stories-44210012>.

60 Ibid.

61 Ibid. McArdle, 1.

62 Ibid.

63 Ibid.

64 Ibid. Lanctot, 7.

65 Dorothy Day, *The Long Loneliness, The Autobiography of Dorothy Day* (San Francisco: Harper & Row, 1952)

Public Dissent

When the news of the Silent Sentinels' incarceration reached the public's ears, there were mixed reactions. Some claimed that the punishment was justified, but many others were sympathetic towards the women, particularly as picketing was fully legal in the district under the Section 6 of the Clayton Act, which legally protected the rights of people to peacefully picket or strike in the country.⁶⁶ On November 23, 1917, a federal judge ruled on the side of the suffragettes, stating that the government had illegally sentenced the suffragettes, and just five days later, the picketers were freed by judicial decree.^{67 68}

The Silent Sentinels' Continued Efforts

Although women's strikes were deemed legal, women's enfranchisement was still not. In 1919, the Silent Sentinels fought for liberty using "watchfires," where they burned hypocritical speeches given by Wilson.⁶⁹ This led to even more arrests of and public dissent towards the Sentinels. Mobs of men attacked these women, trampling them under their feet, leading to broken arms, loss of property, and bleeding faces.⁷⁰ The media blamed this on the suffragists, stating that they instigated the fury of the crowd by feeding "dangerous" fires.⁷¹ Hundreds of women were arrested after being physically harmed by the mob, which believed that it was their right to get rid of the troublemakers.⁷²

But triumphantly, after years of strikes in front of the White House and hundreds of the Sentinels being beaten, jailed, and abused, the 19th amendment passed through the House on May 21, 1919, and the Senate on June 4, 1919.⁷³ By 1920, most of the western and northern states had ratified the amendment; however, the eastern and southern states still stubbornly refused to accept it.⁷⁴ Despite this resistance, federal women's enfranchisement was achieved just over a year later, when Tennessee, the 36th state to ratify the amendment, helped the amendment pass the threshold of the number of states necessary for ratification.⁷⁵ Regardless of the efforts that the NWP put in to pass the amendment, there were still male politicians who wanted women to be out of the political sphere at least until the election of 1920 because they understood that women would drastically influence the

66 Joseph Kovner, "The Legislative History of Section 6 of the Clayton Act," *Columbia Law Review* 47, no. 5 (1947): 749-65. doi:10.2307/1118167.

67 Janice Law Trecker, "The Suffrage Prisoners," *The American Scholar* 41, no. 3 (1972): 409-23. <http://www.jstor.org/stable/41208790>.

68 Ibid. Stevens, 111.

69 Ibid. "Tactics and Techniques of the National Woman's Party Suffrage Campaign," 8.

70 Ibid. Southard, 410.

71 Allison Lange, "Imagery and Propaganda," National Women's History Museum, last modified Fall, 2015, <http://www.crusadeforthetvote.org/propaganda/>.

72 Estelle Sylvia Pankhurst, *The Suffragette; The History of the Women's Militant Suffrage Movement, 1905-1910*, (New York: Sturgis and Walton Company, 1911), 28, <https://archive.org/details/suffragettehisto00pankuoft/page/n9>.

73 U.S. Const. art. II, § 19.

74 John Blundell, *Ladies for Liberty: Women Who Made a Difference in American History* (New York: Algora, 2011), 116, <http://www.questia.com/read/126254077/ladies-for-liberty-women-who-made-a-difference-in>.

75 Ibid.

political atmosphere.⁷⁶ However, other politicians scrambled to pass the 19th amendment in order to get the votes of women. Thus, Warren G. Harding, a public supporter of women's rights, won the election of 1920.⁷⁷

Although Harding was not an ideal president, he led many reform movements for women. During his presidency, the Sheppard-Towner Maternity and Infancy Act was passed, providing federal aid to maternal and child care.⁷⁸ Before the passage of such an act, many mothers were dying due to the lack of prenatal care, a social occurrence seen frequently both after and during World War I. Furthermore, on February 27, 1922, the 19th amendment was deemed constitutional, forming a more stable base on which women could start their reforms.⁷⁹

Conclusion

Even though enfranchisement was a major step in gender equality, it was certainly not the final step in achieving women's rights. Throughout the post-19th amendment era, women continued to strive to use their painfully-earned voting rights in order to influence the political sector even further, notably helping to elect Herbert Hoover, who was pro-prohibition during the 1920s.^{80 81} Already showing their influence on society just a few years after achieving their voting rights, women were determined to change the world. American women continue to prove to the world that the hard work of the NWP and the suffragettes did not go to waste.

76 Mona Morgan-Collins, "Votes for and by Women: How Did Women Vote after the Nineteenth Amendment?," London School of Economics, last modified December 9, 2015, 5, <http://www.lse.ac.uk/government/Assets/Documents/pdf/research-groups/pspe/working-papers/Mona-Morgan-Collins-Votes-For-and-by-Women.pdf>.

77 Ibid.

78 "Warren G. Harding— Key Events," University of Virginia, accessed November 6, 2018,

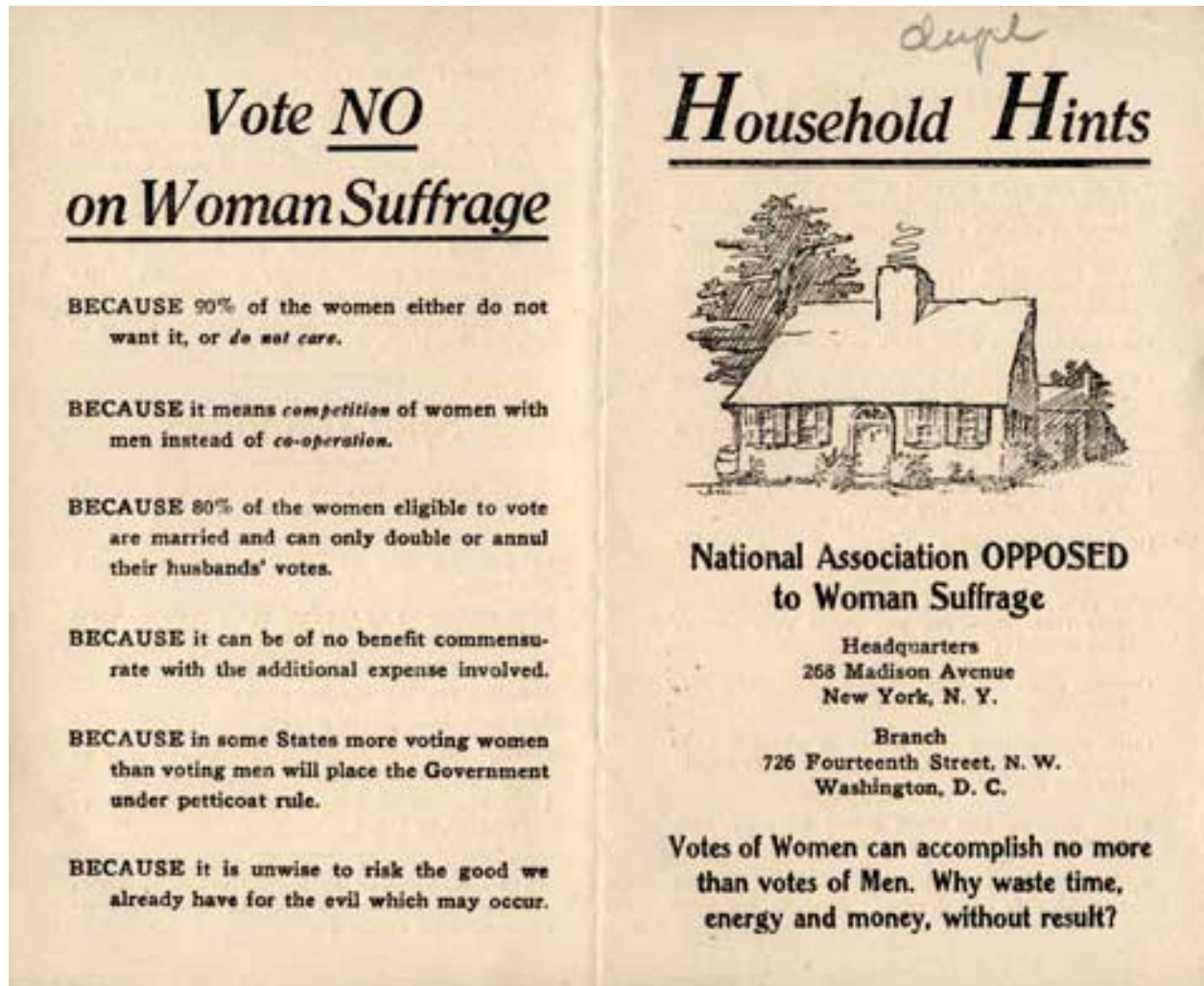
<https://millercenter.org/president/warren-g-harding/key-events>.

79 Ibid. U.S. Const. art. II, § 19.

80 Richard Norton Smith and Timothy Walch, "The Ordeal of Herbert Hoover," *Prologue Magazine*, 36, No. 2 (2004), <https://www.archives.gov/publications/prologue/2004/summer/hoover-1.html>.

81 Jo Freeman to Editor of P.S.: Political Science and Politics, in "Gender Gaps in Presidential Elections," <https://www.jofreeman.com/polhistory/gendergap.htm>.

Appendix A



Source: "Pamphlet by the National Association Opposed to Woman Suffrage Part 1," Jewish Women's Archive, accessed January 18, 2019, <https://jwa.org/media/pamphlet-distributed-by-national-association-opposed-to-woman-suffrage>.

This pamphlet is propaganda created by an anti-suffrage organization and states all the reasons for its disapproval of the suffrage movement. Some arguments make misogynist comments while others are simply incorrect.

Appendix B



Source: Harris & Ewing, Washington, D.C. Pennsylvania on the Picket Line. United States Washington D.C, 1917. Photograph. <https://www.loc.gov/item/mnwp000212/>.

The Silent Sentinels, in this case, all from Pennsylvania, are standing in front of the White House picketing to garner the attention of President Wilson. The signs they hold up directly address President Wilson, with some even calling him a Kaiser, the king of Germany, because he does not respect the democratic rights of women just like the Kaiser oppresses his own people.

Appendix C



Source: Silvia Pankurst, *The Suffragette*, (New York: Sturgis & Walton, 1911), 432. <https://archive.org/stream/suffragettehisto00pankuoft#page/n511/mode/2up/search/emily+wilding+davison>

This drawing depicts a suffragist being force-fed. Numerous individuals hold onto each limb of the “patient,” while a tube is inserted into the nose or mouth. Then, a mixture of raw eggs, milk, etc. is poured through the tube and into the patient. Many Sentinels, including Alice Paul and Kitty Marion, were forced through multiple torture sessions each day.

References

Primary Sources

“Alice Paul Describes Force Feeding” London, England. Dec-09, 1909, Manuscript/Mixed Material.
<https://www.loc.gov/item/rbcmiller003904/>.

This newspaper article contains quotations from Alice Paul herself as she comments on the torturous force-feeding sessions she was condemned to in prison. This source provides first-hand evidence from victims of this method of torture. Even though this source only contains quotations from Paul and does not offer any opinions from the anti-suffragists, this clipping is plentiful to understand that Paul was determined to pass the 19th amendment as it can be clearly seen by the excerpt that Paul dreaded the force-feeding sessions, but still voluntarily returned to prison for the suffrage cause.

Cassels, William. “Forcible Feeding,” *The British Medical Journal* 1, no. 2557 (1910): 50. <http://www.jstor.org/stable/25289108>.

William Cassels, a doctor during the 19th century, disagrees intently on Dr. Kirby’s view on force-feeding sessions. Dr. Kirby had stated gravely about the situations the suffragettes were exposed to. He proclaimed that women were very weak and were prone to throwing up after the torture sessions. Cassels contradicts Dr. Kirby’s account outright providing “facts” on how the patients, or the imprisoned suffragettes, were ill due to the hunger strikes but were nursed into wellness thanks to being force-fed. However, Cassels’s account cannot be deemed as trustworthy because there are no accountable quotations from the victims. Cassels could have made up the whole argument. Still, this source offers context for understanding how torture, like force-feeding, can be justified with a few made up “facts.”

Day, Dorothy. *The Long Loneliness, The Autobiography of Dorothy Day* (San Francisco: Harper & Row, 1952)

As one of the fellow Sentinels of Alice Paul, Dorothy Day describes the life of a Silent Sentinel in her book. Day illustrates her experience and the humiliation she received inside the Occoquan prison. Day’s account portrays the Sentinels being treated as no more important than an animal inside the zoo, with guards watching them all the time, even when using the toilet. Day emphasizes the horrors she encountered the jail, highlighting the tragedy the suffragettes suffered through to gain voting rights. However, Day does not use many statistics but rather reflects on her own experience in her book. This may cause some accounts to be faulty as she might have exaggerated the incident unconsciously or consciously. Nevertheless, Day provides first-hand evidence on the degradation the suffragettes experienced while incarcerated.

Espionage Act 1917. s1 < http://www.digitalhistory.uh.edu/disp_textbook.cfm?smtid=3&p-sid=3904>.

The Espionage Act of 1917 simply states that no person should state anything blasphemous about the government during the time of war. Even though the United States emphasized its democratic background, including freedom of speech, many of these natural rights were forbidden especially during the two world wars. This law reinforces the undemocratic and ironic agenda set by the government to curb the development of many reform movements, including the women's rights movement.

Kovner, Joseph. "The Legislative History of Section 6 of the Clayton Act." *Columbia Law Review* 47, no. 5 (1947): 749-65. doi:10.2307/1118167.

The Clayton Act was passed to let ordinary people strike against the government legally. This act was supposedly passed to protect the democratic rights of citizens and let them pronounce their woes to the state. Ironically, this law was not taken into account when the Sentinels were arrested, identifying the pro-civilian campaign of President Wilson as pure show. This also displays Wilson's antipathy towards the suffragettes, especially during his first term in office. Central to my paper, this source highlights the persecution received by the suffragettes where the government broke their own act to suppress the picketers.

Lanctot, Catherine J. "'We Are At War And You Should Not Bother The President': The Suffrage Pickets and Freedom of Speech During World War I." Villanova University School of Law. 200. 6-21. <https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1120&context=wps>.

Lanctot, as a professor in legal ethics, draws on a close study of primary sources about Alice Paul and the Silent Sentinels, and her own analysis of these sources. By stating that women were unfairly labeled guilty by an all-male jury, the author paints the women as the victims and highlights the tragic discrimination the women experienced. Lanctot pays special attention to characterizing Alice Paul as an honorary individual, portraying her as a determined and unselfish social worker. Lanctot also puts in much effort painting the mistreatment of women during their incarceration in the Occoquan prison and the district jail. However, she tends to praise highly the legal strategies planned by Alice Paul and the Silent Sentinels in numerous occasions without sources backing up the cause for her reverence, deeming it difficult to evaluate Lanctot's own opinions to be purely factual. Yet, Lanctot does offer a valuable source for this essay, because her paper provides a descriptive overview of the abuse, including discrimination on trial received by the Silent Sentinels. This offers context for describing the unfair sentencing of the Silent Sentinels that led to their imprisonment.

Pankhurst, Estelle Sylvia. *The Suffragette; The History of the Women's Militant Suffrage Movement, 1905-1910*. (New York: Sturgis and Walton Company, 1911). 28. <https://archive.org/details/suffragettehisto00pankuoft/page/n9>.

Pankhurst, a British suffragette, records the militant suffrage movement during the early 1900s. She underlines that militant advocacy is necessary with so many of men disregarding the passive suffrage movement, but that this militancy was met with mixed reactions.

Pankhurst describes the public's response to the radical tactics of the Silent Sentinels and the resulting force-feeding condemned to these women. She emphasizes that some people were sympathetic, but most were furious due to the continued picketing during World War I. Pankhurst, as being part of the Silent Sentinels, relies heavily on her own views and her personal experience while writing her book. Yet, this piece of evidence provides context into how the suffragettes themselves felt during their fight and helps me analyze the conflicting emotions within the Sentinels.

President Wilson's Declaration of War Message to Congress, April 2, 1917; Records of the United States Senate; Record Group 46; National Archives, <https://www.ourdocuments.gov/doc.php?flash=false&doc=61>.

This document states that Wilson is going to war with Germany to keep the world safe for democracy. This message outlines the different causes and effects of America going to war, with its emphasis on keeping democracy. This source is crucial for my paper as it provides context for the irony felt by the Sentinels when Wilson is not democratic in his country at the moment. This information offers context for analyzing the extent of how much of the president's hypocrisy influenced the NWP's decision to continue striking during World War I.

Prisoners (Temporary Discharge for Ill-Health) Act, 1913, § 1.

The Prisoner's Act of 1913 was created in Britain to curb the power of suffragettes, especially those participating in hunger strikes. This act forces prisoners in undesirably ill situations to be released from prison and to be returned once their condition is recovering. The act has been specially created for the suffragettes, highlighting the hatred of the government towards the Sentinels. This act offers context for underlining just how evil the governments were in suppressing the strikes by the suffragists.

Sanford, J.B., "Argument Against Women's Suffrage," (Speech, California, June 26th, 1911), San Francisco Public Library, <https://sfpl.org/pdf/libraries/main/sfhistory/suffrageagainst.pdf>

Sanford, the Senator of California during the early twentieth century, draws from misogynistic logic to argue that women do not belong in the political sphere of influence and, thus, should not be granted suffrage rights. He outlines multiple reasons, most of them returning to the idea of separate spheres of influence, on why women suffrage should not be supported. Sanford emphasizes repeatedly the validity of gender norms and how trying to break it would result in havoc. Yet, Sanford relies very heavily on personal opinion without any statistical evidence to prove what he is arguing. He could make his speech stronger by adding real instances rather than just assumptions. Still, Sanford does offer a helpful source as it provides information on the arguments opponents of women suffrage used to justify their patriarchal values..

Stevens, Doris. *Jailed for Freedom* (New York: Liveright Publishing, 1920). 110-149. <https://www.questia.com/read/55403710/jailed-for-freedom>.

Stevens primarily uses first-hand experience to communicate her story as she is a former member of the Silent Sentinels. Stevens's book offers a first-person perspective into the

life of a suffragette, including the picketing as well as the incarceration. As she was part of the Sentinels, it is hard to expect objectivity from her account, and she could have easily exaggerated some of the details. However, the book is critical to understand the political mood back in the day and the opinions of the Sentinels themselves. Steven's account offers valuable context to gain a close perspective into the life of a Sentinel.

U.S. Const. art. II, § 19.

The nineteenth amendment is arguably the most important document for the women's rights movement. The ratification of this amendment finally enfranchised women after their 80-year long fight. The amendment states clearly that "the right to vote... shall not be denied... on account of sex." This source was necessary for my essay to write about the resulting success and triumph of the Silent Sentinels. This amendment ignited other legacies of suffragettes, including the emergence of female influence in nation-wide politics.

Williams, J. Price James, W. McIntosh, and Ettie Sayer. "Forcible Feeding Of Suffrage Prisoners." *The British Medical Journal* 2, no. 2701 (1912): 907-08. <http://www.jstor.org/stable/25298861>.

In this journal, the authors describe the harsh process of force-feeding and argue against the use of such torture method. The authors lament the effects of force-feeding, pleading their superiors to end this practice. They emphasize that force-feeding is fruitless, and will only result in damaging the emotional wellness of the suffragettes. With many suffragettes being punished by such method, this journal supplies insight into how immoral the practice really is. These accounts by these authors, who are presented in the journal as doctors, offer context to the actual harm this torture method can cause.

Secondary Sources

"About This Collection - Women of Protest: Photographs from the Records of the National Woman's Party | Digital Collections | Library of Congress," TACTICS AND TECHNIQUES OF THE NATIONAL WOMAN'S PARTY SUFFRAGE CAMPAIGN. Accessed July 17, 2018, <https://www.loc.gov/collections/women-of-protest/about-this-collection/>.

This collection of pictures paints the militant suffrage movement of the early 20th century. It contains pictures of the leaders of the movement, such as Lucy Burns and Alice Paul, and also pictures of the different types of strikes led by the organization. This selection of pictures portrays the diverse methods the National Women's Party implemented to garner support and attention from the public. However, because most of the photos were taken by the NWP, the collection may be biased heavily towards the NWP, with some pictures even being used for propaganda by the organization. Central to my essay, these images provide factual evidence of Lucy Burns's experience in the Occoquan prison as some pictures are of the cells of the Occoquan Prison and are from Lucy Burn's incarceration.

Adams, Katherine H. and Michael L. Keene. *Alice Paul and the American Suffrage Campaign*. (University of Illinois Press 2008). 94. <http://www.jstor.org/stable/10.5406/j.ctt1xcpzj>.

The two authors utilize historical evidence as well as their own knowledge as experts in women's studies to summarize Alice Paul's process of nonviolent pressure towards the US government to pass the 19th amendment. They paint Paul as a quaker committed to passive resistance rather than the militant protestor that many other sources cite her as. Adams and Keene pay special attention to the emphasizing Paul's strategy for enfranchisement starting from 1916 until the passage of the 19th amendment, lamenting on how Paul's Silent Sentinels were the victims of Wilson's disagreement towards the suffrage movement. The authors could have mentioned more about the opinions of the Wilson administration and the causes for its sudden support for women's suffrage. However, the authors do offer a valuable source for this essay, as they include specific details highlighting the imprisonment of the picketers.

"Alice Paul (1885 –1977)." Center for American Women and Politics. last modified August, 2014. <http://tag.rutgers.edu/wp-content/uploads/2014/05/Alice-Paul.pdf>.

The author provides insight into Alice Paul's biography, starting from her youth to her participation in the drafting of the Equal Rights Amendment. With the source being compiled from the Center for American Women and Politics, the timeline offered is most likely accurate. The author's summary helps support the idea that Lucy Burns and Alice Paul shared the same ideas while they created the Congressional Party, leading them to create the Congressional Union for Women Suffrage, which focused on lobbying for a constitutional amendment regarding women suffrage. This source proved useful in identifying the different tactics used by the NWP and the basic timeline of Alice Paul's life as a suffragette.

Behn, Beth A. "Woodrow Wilson's Conversion Experience :: The President, the Woman Suffrage Movement, and the Extent of Executive Influence." University of Massachusetts Amherst. 2004. 18. <https://scholarworks.umass.edu/cgi/viewcontent.cgi?referer=https://www.google.co.kr/&httpsredir=1&article=2447&context=theses>.

In this publication, Beth A. Behn describes President Woodrow Wilson's change in the stance of the women's suffrage movement over his two terms. Behn explores the different causes the NAWSA and the NWP believe are the reasons for the president's sudden change in position. She also criticizes how many biographers of Wilson disregarded the importance of women suffrage while drafting Wilson's life. Behn, herself, tends to denounce the significance of the NWP, even stating that the NWP's militant activities "hurt the cause of suffrage" rather than support it. Yet, Behn's statements are belittled as she does not provide enough evidence that states that NWP's more radical stance really did disparage the suffrage movement. For our paper, Behn's source proves useful in characterizing Paul as a Quaker, answering the question to why Paul started to fight for equality.

Blundell, John. *Ladies for Liberty: Women Who Made a Difference in American History*. (New York: Algora, 2011). 116. <http://www.questia.com/read/126254077/ladies-for-liberty-women-who-made-a-difference-in>.

In this book, Blundell tells the stories of twenty-two women who struggled for the rights of the deprived against a cultural or political power. He writes about numerous suffrage leaders, including Alice Paul and Elizabeth Cady Stanton. Blundell pays particular attention to details about each woman, adding a sense of reality to all of his stories. In Alice Paul's section, Blundell emphasizes the hardships the women's rights organization had to endeavor through to gain female enfranchisement by providing statistical evidence to let the readers gain insight into the gravity that Paul felt. Blundell might have been euphemizing the lives of many of the women leaders, but his source is still useful due to Blundell's inclusion of statistical evidence and specific states that passed the amendment at specific time periods, providing more data for my study.

Costello, Matthew. "Picketing the White House," The White House History Association, last modified April 14, 2017, <https://www.whitehousehistory.org/picketing-the-white-house>.

Costello explores the legal incidents that occurred due to the NAWSA and the NWP. This account describes the different forms of attraction the women suffrage organizations used to gain attention from the public. Costello includes quotations from Wilson to show how these persuasion techniques are impacting the president over the years. However, Costello euphemizes Wilson to be supportive or neutral of the women's suffrage movement throughout his terms, but, according to other sources, Wilson was rather cold towards the suffrage movement for the first few years in office. Nonetheless, this source offers the triumph and tragedy of the Sentinels, with information about the cruelty of the sexist trial results, increasing the sentences of the picketing Sentinels.

Cott, Nancy F. "Feminist Politics in the 1920s: The National Woman's Party." *The Journal of American History* 71, no. 1 (1984): 44. doi:10.2307/1899833.

In her book, Cott, as an expert on gender topics, describes the differences that set the National Woman's Party, the main association of Alice Paul, different from any other women's suffrage organizations. Cott outlines the mission statement of the NWP, which is to gain a federal amendment giving women the right to suffrage. Cott states that the NWP was the one of the only women's rights group to keep picketing against the government after the start of the first World War, and how this created the patriotic public to disagree with the suffrage cause. Cott states how the NWP's radical tactics, such as watch fires and picketing during times of war, were at many times deemed inappropriate, creating a bad impression on the women's suffrage movement. Cott's account on the tactics of the NWP lays the cause for the future public criticism about the NWP.

Freeman, Jo. Jo Freeman to Editor of P.S.: Political Science and Politics, in "Gender Gaps in Presidential Elections," <https://www.jofreeman.com/polhistory/gendergap.htm>.

Here, the writer gives evidence on the effect of the women's newly gained voting rights on the elections of the 1920s. Freeman analyzes the change in the pattern of the gender gap in

voting throughout the years. Because a whole half of the population had freshly obtained enfranchisement in the 1920s, many politicians were changing their campaigns to accustom to this new demographic. He states that one such politician was Herbert Hoover, who ran on a progressive campaign, and the support from women voters led Hoover to become the 31st president of the United States. This source emphasizes the influence of the enfranchisement of women and disproves that wives will vote for the same candidate as their husband. Freeman's article is based on many statistics, all based on reports within that period, making his claim very reliable. In my study, this source is useful to prove the significance of the passage of the 19th amendment on politics.

Gurko, Miriam, *The Ladies of Seneca Falls: The Birth of the Women's Rights Movement* (New York: Macmillan, 1974), p. 9. <http://people.loyno.edu/~history/journal/1984-5/donnaway.htm#14>.

Gurko paints the tension between the suffragettes and the patriarchal male politicians during the path leading up to the passage of the 19th amendment. Gurko applauds the rapid organization of women rights sectors before the Civil War, calling the years the "years of revolution." He talks about the influence of suffragettes on other reform movements, mainly abolition, and how outspoken the women were during times of repression. Gurko laments on how many patriarchal male politicians were critical of these outspoken women, who labeled the women as "hideous monsters." Even though Gurko many have been biased with her account as she seems to be sided towards the suffragettes, this quotation from Orestes Brownson, a Catholic spokesman, offers insight into the sexism women were exposed to during the pre-Civil War era.

Hasday, Jill Elaine "Contest and Consent: A Legal History of Marital Rape." *California Law Review* 88, no. 5 (2000): 1383. doi:10.2307/3481263.

As a professor in legal history, Hasday paints the history of marital rape and the advancement of women's rights about domestic violence, exploring advancement in a legal format. She argues that this improvement is not enough and that many states still condemn women to abuse by their partners. Hasday disagrees with other critics, who she claims to have stated that women themselves did not challenge their male counterpart's mistreatment, and asserts that women had been confronting this matter since the start of the republic. Supported by numerous sources including accounts of trials from and books written in the 1800s, Hasday provides a compelling argument on the change in different nations' perspectives on marital rape. In this context, the author's description of the gender roles of the late 19th century proves useful to support that women were treated as inferior to their male counterparts during that era.

Hawranick, Sylvia, Joan M. Doris, and Robert Daugherty. "Alice Paul," *Journal of Women and Social Work* 23, no. 2 (2008): 190-196. Accessed July 17, 2018. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.850.2968&rep=rep1&type=pdf>.

In this publication, the authors describe the endeavor Alice Paul went through to successfully campaign for the passage of the Susan B. Anthony Amendment, leading to the ratification of the 19th amendment. Their account is unique in that they focus on Paul's personality and how it could have influenced her activism, both in England and in the United States.

While focusing on the activities of Paul, they also mention that it was inevitable for President Wilson to pass the women's right amendment with the pressure from both the suffragettes and the public. However, these authors' account does not contain many sources and may be based on their own opinions. Nonetheless, this source offers crucial evidence for our study, as it contains quotations from suffragettes who experienced the Occoquan prison that would provide first-hand insight into the event. This detail facilitated my understanding of the suffragettes' perspective into their life in prison.

Helton, Edwina L. *The American Suffragette's Journey to Enfranchisement: From Seneca Falls to Ratification of the Nineteenth Amendment in Text and Photos*. (Meadowbrook Publishing, 2018). 137.

Helton documents the progress of the women's rights movement from its birth to the milestone passage of the 19th amendment using the information she gathered from her research in gender studies. Her book contains primary sources about the suffragettes' struggle, including speeches, reports, resolutions, etc. Helton seems to have excluded most of her own opinion from the text, as she had made a collection of different primary sources, making her book more factual and reliable than others. Within the context of the current study, Helton's description of the mistreatment of the suffragettes by Occoquan Superintendent Raymond Whittaker presents the woes of the Sentinels. Her source assists in creating a detailed account of the Night of Terror with all of the anecdotal evidence from the suffragettes who were present during that terrible incident.

"Historical Overview of the National Woman's Party," The Library of Congress, Accessed January 13, 2019, 3, <https://www.loc.gov/collections/static/women-of-protest/images/history.pdf>.

This source presents the historical overview of the National Woman's Party, including its formation, its tactics, and its triumph. The author introduces the information in chronological order, starting from Paul and Burns's relationship. The source may be slightly biased towards the suffragettes as much of the source contains information on the mistreatment of the women by the public and the prison guards. However, disregarding the implied bias, these tragic events have undeniably occurred and can be used to support the hardships faced by the Sentinels during their struggle for enfranchisement. Central to our topic, this source is evidently very useful to find certain facts, such as the anti-president quotes on the banners the Silent Sentinels held in front of the White House.

Hoffberger, Courtney. "Nineteenth Century Reform Movements: Women's Rights." *Nineteenth Century Reform Movements: Women's Rights*. https://www.umbc.edu/che/tahlessons/pdf/Nineteenth_Century_Reform_Movements_Womens_Rights.pdf

Hoffberger explores the change in gender roles from the pre-Revolutionary War era to the early 20th century. She laments about the lack of rights women had in the late 19th century, but also commends the improvement of female status during the reform movements sparked by the Second Great Awakening. Hoffberger's source focuses mainly on the overall effect of women on all reform movements, such as abolition and temperance, but still does expand on how women were treated as naturally inferior to men, and, thus, were allowed way fewer rights than their male counterparts. This publication gives insight into the ex-

treme discrimination women were victims to and the cause for them entering the struggle for female enfranchisement. For my research, Hoffberger provided information on what the ideal woman was like during the pre-19th amendment era.

Kaestle, Carl F. and Eric Foner. *Pillars of the Republic: Common Schools and American Society 1780-1860*. (New York: Hill and Wang, 2006).

Kaestle and Foner analyze the acceptance of state school systems during the 19th century. By emphasizing that the cause for this acceptance was the need for the growth of ideal republican citizens, they introduce the concept of the “Republican mother.” The authors argue that this notion of women improved the status of females during the Republican era, as their sphere of influence had been increased from only domestic roles to voicing concerns about moralities. Women of all status were expected to follow these domestic guidelines that were crucial to becoming a great mother and housewife, which were some of the occupations allowed for women. However, the authors make a few assumptions in their book, basing their main argument on Horace Mann’s opinions. Yet, this source offers crucial information on the image of a woman during the early 1800s.

Lange, Allison. “Imagery and Propaganda,” National Women’s History Museum, last modified Fall, 2015, <http://www.crusadeforthevote.org/propaganda/>.

Lange creates a quick overview of the propaganda used in the early twentieth-century used by both sides of the suffrage debate. Lange sides with the suffragists, stating how an anti-suffrage magazine company, called Puck, changed their stance after being influenced by the NAWSA’s propaganda stating how women can still be great mothers even if they vote. Lange could have made her article stronger by pulling in some primary documents as examples of propaganda used by the suffragettes. Yet, Lange does present a great source for this paper, because she gives a concise overview on the impact of propaganda on paper, a tactic that was not stated in many other sources, on the passage of the nineteenth amendment. For my essay, this offers proof of public dissent towards the suffragists as well as a summary of a successful persuasion technique used by the suffragists.

Lange, Allison. “Suffragists Unite: National American Woman Suffrage Association,” National Women’s History Museum, last modified Fall, 2015, <http://www.crusadeforthevote.org/naw-sa-united/>.

Lange, an expert in women’s history, writes a summary on the National American Woman Suffrage Association (NAWSA), the biggest women’s rights organization during its era. She explores both the applaudable and deplorable tactics of the party; the NAWSA was successful in leading a passive resistance group but was also notoriously racist. Because Lange’s article is very concise and is not supported by many sources, it is hard to deem her piece as reliable. However, because my paper is not centered around the NAWSA, this passage is enough for me to gain basic information on the party. This offers context for why Alice Paul left this bigger organization to create her own one with Lucy Burns.

McArdle, Terence “‘Night of Terror’: The Suffragists Who Were Beaten and Tortured for Seeking the Vote.” *The Washington Post*. November 10, 2017. 1-2. Accessed July 17, 2018. https://www.washingtonpost.com/news/retropolis/wp/2017/11/10/night-of-terror-the-suffragists-who-were-beaten-and-tortured-for-seeking-the-vote/?noredirect=on&utm_term=.4e86c89fc3f2.

McArdle provides a detailed account on the Night of Terror based on books written by past Silent Sentinels. He relays specific evidence about the experiences of the Silent Sentinels both when they were picketing in front of the White House and when they were locked up in the Occoquan Workhouse. He deplores the treatment of women in these prisons, accentuating the physical abuse condemned to these women in such facilities. He outlines the days leading up to the Night of Terror, characterizing the suffragists as victims while the prison guards as perpetrators. However, McArdle relies too heavily on personal anecdotes rather than statistical evidence; his work could be improved if he had some instances of data along with these quotations. Still, McArdle’s organization of the different first-hand experiences by the incarcerated Silent Sentinels offer a detailed overview of what happened in the Occoquan workhouse on the Night of Terror.

Mohan, Megha. “Kitty Marion: The Actress Who Became a ‘Terrorist,’” *BBC News*, last modified May 27, 2018, <https://www.bbc.com/news/stories-44210012>.

Mohan delves into the life of Kitty Marion, a Silent Sentinel counted by the police as being among the most dangerous suffragettes. She outlines the causes for Marion, an actress, to suddenly become so intrigued with the suffrage movement. The facts that Mohan includes is an efficient wake-up to anyone who disregarded the torture the imprison women suffered through as unimportant: Marion was force-fed 232 times in one day. However, Mohan might be euphemizing Marion’s activities too much; Mohan tends to overlook Marion’s near terrorist tactics as necessary and heroic. Mohan could have written slightly about the damage caused by Marion to make her sound less biased. This source offers a very important detail to me as it proves just how widely spread the suffragettes were and how adamantly they all struggled for the betterment of the whole.

Morgan-Collins, Mona. “Votes for and by Women: How Did Women Vote after the Nineteenth Amendment?,” *London School of Economics*, last modified December 9, 2015, 5, <http://www.lse.ac.uk/government/Assets/Documents/pdf/research-groups/pspe/working-papers/Mona-Morgan-Collins-Votes-For-and-by-Women.pdf>.

Morgan-Collins draws on a close study of election results and his own interpretation to explore the extent of the effect of the passage of the 19th amendment on the results of the 1920 Congressional election. She analyzes that women were prone historically to be more supportive of the Republican party, which later supports their influence on Hoover’s nomination as the 31st president of the United States. Morgan-Collins emphasizes that it is impossible to fully understand the extent to which the females’ votes affected the 1920 elections due to many factors, including the popular pro-business policy that might have been the main impact for the landslide win of the Republican Party. Yet, Morgan-Collins’s paper offers evidence on how the Republican party did realize early on the power of the women’s vote and supported suffrage much more readily than the Democratic party. This offers con-

text for analyzing the plausible future influence of the women's vote on the outcome of the elections.

Neale, Thomas H. "The Proposed Equal Rights Amendment: Contemporary Ratification Issues," Congressional Research Service, last modified July 28, 2017, <https://lwvnc.org/wp-content/uploads/2017/09/2017-CRS-ERA-Ratification-Contemporary-Issues-7-28-2017.pdf>

Neale, an author who published multiple books regarding the legislative materials, draws from the Equal Rights Amendment (ERA) and his own analysis to create an overview on the cause for the failure of ratification of this amendment. He outlines the process of the creation of the amendment as well as its path to being almost ratified only to be halted in progress for seven years. Neale compares the arguments made by ERA proponents as well as opponents but does not take a clear side on his essay. Central to my paper, Neale introduces the ERA as a future project of Alice Paul, who worked ardently to pass this amendment through. This offers context that the legacy of the nineteenth-amendment was not always triumphant for women.

"1917 Suite: Silent Sentinels and the Night of Terror," Black Bird 17 no. 1 (2018), 3, <https://blackbird.vcu.edu/v17n1/gallery/1917-suffrage/intro-page-night-of-terror.shtml>

This source gives a concise overview from the picketing of the Silent Sentinels to the Night of Terror. Using a plentiful number of primary resources, the author characterized the suffragettes as passive resistors being attacked by the public mob and the anti-women government. They pay particular attention to the miserable experiences of the women both inside the Occoquan Workhouse and outside while picketing. The author draws from the experiences stated by former Silent Sentinels, Dorothy Day and Doris Stevens, as the major piece of evidence to tell the story of the abused Sentinels. Despite the author fully expressing their affinity towards the suffragettes, their author offers specific details about the punishments inside the prison, providing evidence to further emphasize the extent of mistreatment of the picketers by the prison guards.

Purvis, June. "Suffragette Hunger strikes, 100 Years On." Last modified July 6, 2009. <https://www.theguardian.com/commentisfree/libertycentral/2009/jul/06/suffragette-hunger-strike-protest>.

Purvis sheds light on the hunger strikes led by the Silent Sentinels and their consequences, such as force-feeding. He criticizes these punishments, arguing that the women did not deserve this torture nor the prison sentence. Purvis points out that by becoming political prisoners, the women can prove to the public that the government was starting to be affected by the deeds of the Sentinels, which was the immediate goal for the picketers. However, Purvis relies too heavily on emotional adjectives, without basing his ideas with concrete evidence. Nonetheless, the article provides context for analyzing the cruciality for the Silent Sentinels to be tried as political prisoners proving to be a necessary source for my paper.

Quah, Stella R. "Gender Roles, Family Roles and Health Behaviour: Pursuing the Hidden Link." *Southeast Asian Journal of Social Science* 18, no. 2 (1990): 51-69, <http://www.jstor.org/stable/24491671>.

In this publication, Quah, a professor in family sociology, analyzes the "role set hypothesis" and its detrimental effect towards the advancement of rights of women. She connects this role set hypothesis with the republican motherhood emphasizing that both are ideals expected of most women; both notions are set by the society were causing women to be submissive towards their male counterparts. Quah pays special attention to emphasizing that these social norms are some causes for women to start revolting for more equal rights arguing that women, as these assumptions that gender is the main attributor to behavior has caused prejudice against women for centuries. This source is beneficial for my paper as it provides context to why these discriminatory concepts had come about.

Riegel, Robert E. "Women's Clothes and Women's Rights." *American Quarterly* 15, no. 3 (1963): 390-401. doi:10.2307/2711370.

Riegel draws his arguments from quotations from feminist leaders about women's clothes as the symbol of freedom from male dominance. He argues that feminists objected traditional clothes, like long skirts, due to their implication that women were subservient to men. In his analysis of the republican motherhood, Riegel criticizes yet another social norm set for women, stating that women during the late 18th century and the 19th century were not allowed to wear certain types of clothing due to men's disapproval. Riegel gives evidence for the existence of extreme discrimination that later led many women to fight against society. Central to my paper, Robert's discussion on the republican motherhood and its influence on women's fashion helped me to analyze the extent of female oppression during the 19th century.

Robison, Debbie. "Women's Suffrage Movement Led to Occoquan Workhouse Imprisonment." *Northern Virginia History Notes*. Accessed July 17, 2018. http://www.novahistory.org/Lorton_Womens_Suffrage.htm.

In this publication, Robison describes the tragic experiences that incarcerated women went through in the Occoquan prison. She deplores the treatment of the women especially by Superintendent Whittaker, who was the main abuser of the Sentinels, arguing that these women should not be treated as ordinary prisoners. Robinson, however, shows some flaws in her argument relies too much on newspaper articles, with all of her sources except for one from the same newspaper site. Her article would have been more reliable by inserting more evidence to draw out from. This source is important as it provides specific evidence about the conditions inside the workhouse as well as the characterization of Superintendent Whittaker. These pieces of evidence offer context for me to analyze the intensity of harm done to these women in the prison.

Rosser, Sue V. *Women, Science, and Myth: Gender Beliefs from Antiquity to the Present* (California: ABC-Clio, 2008). 62. <https://www.questia.com/read/123983048/women-science-and-myth-gender-beliefs-from-antiquity>.

In this book, Rosser analyzes the gender roles prevalent during the 19th century and how they advanced through the years. Rosser questions the gender norms set by the society starting from the day the individual is born. She argues that behavior is mostly attributed to the responses an individual receives from the environment, disagreeing on the nature hypothesis reasoned by many men in the 19th century. Rosser pays particular attention towards the public's treatment of the person, arguing that nurture had created the behaviors associated with each gender. Within the context of the current study, Rosser's remarks offer an insight into the common prejudiced attitudes of men towards women.

Smith, Richard Norton and Timothy Walch. "The Ordeal of Herbert Hoover." *Prologue Magazine*, 36, No. 2 (2004). <https://www.archives.gov/publications/prologue/2004/summer/hoover-1.html>.

In this article, Smith and Walch utilize statistics and quotations from the Hoover Library to provide a summary of the presidential campaign Herbert Hoover led to become the 31st president of the United States. In the summary, the authors mention that Hoover purposefully ran on a pro-women platform to gain votes from women. Yet, Smith and Walch prove to be very attached to the president, using subjective adjectives to describe the personality of Hoover. The overview could be improved with the use of a more impartial language. Nevertheless, this article offers context for evaluating the amount of influence women's enfranchisement had towards the political sphere.

Southard, Belinda A. Stillion. "Militancy, Power, and Identity: The Silent Sentinels as Women Fighting for Political Voice." *Rhetoric and Public Affairs* 10, no. 3 (2007): 409. <http://www.jstor.org/stable/41940153>.

Southard draws from multiple primary sources created by the NWP and her own research as a professor in women's studies to explain the militant activism used by the Silent Sentinels to advance the women's suffrage movement. She stressed the idea of the "New Women," actively characterizing them as the rebels of the traditions of the 19th century. Southard also compares the Silent Sentinels' tactics of forming a rhetorical relationship with the public with the more passive organizations, such as NAWSA's techniques. Even though she seems to be biased towards the Silent Sentinels, Southard's inclusion of all tactics implemented by the Silent Sentinels helps lessen her subjectivity. This essay offers context for analyzing the accounts of the experiences of the Silent Sentinels during their imprisonment.

"Suffragist Alice Paul Clashed with Woodrow Wilson." Public Broadcasting Service. accessed July 17, 2018. <http://www.pbs.org/wgbh/americanexperience/features/suffragist-alice-paul-clashed-woodrow-wilson/>.

This publication provides an overview of Alice Paul's tactics to grasp both the attention of the public as well as the attention of President Wilson. The author compares the NAWSA and the NWP, stating that Paul's decision to leave the NAWSA was led primarily by the bigger

organizations conservative stance. They also argue that Wilson's sudden change to accept suffrage was mainly because of the suffrage movement's gain in political power and that Paul's adamancy was the main reason for it. This source offers a unique view on the motivation for Wilson's conversion, providing context for analyzing the extent to which different causes affected Wilson's support of the ratification of the nineteenth amendment.

"Tactics and Techniques of the National Woman's Party Suffrage Campaign." The Library of Congress. Accessed on December 7, 2018. 8-10. <https://www.loc.gov/collections/static/women-of-protest/images/tactics.pdf>.

This article describes the diverse techniques the National Woman's Party used to advance the passage of the nineteenth amendment. The author states that one of the main goals of the NWP was to convince President Wilson to change his mind, as his support would have garnered support from other political leaders as well. The article focuses particularly on how the NWP employed persuasion tactics, such as holding pageants, parades, petitions, etc., but that the main form of gaining support from the president was picketing. The author yields details about specific incidents that occurred in the Occoquan Workhouse. Description, including names and types of punishment, helps support my research by providing an explicit portrayal of the Night of Terror.

"The Trials of Alice Paul and Other National Woman's Party Members." Law Library. <http://law.jrank.org/pages/2806/Trials-Alice-Paul-Other-National-Woman-s-Party-Members-1917.html#ixz-z5asBxtJFc>.

This source provides an overview of a trial sentencing Alice Gertrude Crocker, Gladys Greiner, Alice Paul, and Dr. Caroline Spencer for "obstructing a sidewalk." This account of the trial of the Silent Sentinels provides evidence on just how biased the all-male jury was towards the Sentinels. Even though the women defended themselves with a legal act, the jury and the judge were stubborn in their predisposed judgment that the women were guilty. At the same time, this source supports that there were male allies in the women suffrage movement; one such man was the defense lawyer in this trial named Dudley Field Malone. However, the main contribution of this source is its confirmation that the discrimination women were condemned to was itself a tragedy and its justification for the Sentinels' militant advocacy.

Trecker, Janice Law. "The Suffrage Prisoners." *The American Scholar* 41, no. 3 (1972): 409-23. <http://www.jstor.org/stable/41208790>.

Trecker examines the life of Alice Paul inside and outside numerous prisons in detail. She compares the NAWSA and the NWP, in both tactics and beliefs, and stated that the main cause for Paul's separation from the NAWSA was Carrie Chapman Catt's conservative attitude towards suffrage. The author's description of Paul's experience in the Occoquan Prison and her eventual bailout provides the backbone to how the government was inevitably having to start noticing this newly emerging reform movement. However, Trecker could have included more factual evidence in telling the story of the Sentinels as most statements seem to be based on Trecker's own assumptions. Nonetheless, Trecker's uncommon portrayal of

Sentinels as delicate people rather than as angry protestors offers me context to analyze the Sentinels' state of mind.

"Warren G. Harding– Key Events," University of Virginia. accessed November 6, 2018, <https://miller-center.org/president/warren-g-harding/key-events>.

This author draws a close study of President Harding's accomplishments, creating a chronologically organized summary examining the numerous acts passed by Harding, including the pro-female legislation. The author characterizes Harding to be very warm towards women empowerment but argues that his support comes from the result of the passage of the nineteenth amendment and the sudden power women gained. This evidence is relevant to the current study as it presents an indication that women enfranchisement really did have a considerable effect on the political campaign of candidates.

Keith Haring: Pop Art Visionary and HIV/AIDS Activist

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AIDS has made it even harder for people to accept, because homosexuality has been made to be synonymous with death . . . That's why it is so important for people to know what AIDS is and what it isn't.

-- Keith Haring

In a time when the general public was misinformed about the HIV/AIDS epidemic, pop artist Keith Haring publicized his artwork in a marketable and straightforward fashion with the goal of encouraging a discussion about HIV/AIDS and combatting fear and ignorance. Though Keith Haring triumphed in spreading his message about HIV/AIDS successfully through the popularity of his art, which has become embedded in our culture, Keith Haring's early death brought a misfortunate end to the publicization of the issue. However, even after his death, Haring's influence and artwork continues to shine a spotlight on HIV/AIDS and homosexuality in the mainstream.

Gay in the 80s: LGBTQ Culture and Challenges

It can be said without doubt that the homosexual community has been widely victimized throughout history, criticised for lifestyle choices and private affairs.⁸² Although in the modern day, it feels as though this widespread hatred and discrimination has become a thing of the past, it was not so long ago that gay men were misrepresented, misunderstood, and cast aside as social pariahs. The HIV/AIDS crisis of the 1980s⁸³ serves as an excellent example of such discrimination.

During the late 1960s, the Stonewall riots, a violent demonstration against the police raids at the StoneWall Inn, sparked gay activism to be more widespread in America.⁸⁴ Then, in the late 1970s,

82 "A timeline of Lesbian, Gay, Bisexual, and Transsexual History in the United States" States. Gsafe. <https://www.gsafewi.org/wp-content/uploads/US-LGBT-Timeline-UPDATED.pdf> (accessed January 22, 2019).

83 "HIV and AIDS Timeline." | National Prevention Information Network. January 10, 17. Accessed January 02, 2019. <https://npin.cdc.gov/pages/hiv-and-aids-timeline>.

84 Kaplan, Stuart. "The Enduring Legacy of the 1969 Stonewall Riots." ACLU of Oregon. June 10, 2014. Accessed January 02, 2019. <https://www.aclu-or.org/en/news/enduring-legacy-1969-stonewall-riots>.

Harvey Milk became the first open gay politician in America,⁸⁵ bringing homosexuality into the mainstream discussion. However, the progress made within the LGBTQ community as a result of these events were brought to a halt in the 1980s with rise of one major crisis: the HIV/AIDS epidemic.

The crisis first started in 1981 when the Centers for Disease Control and Prevention announced five cases of strange pneumonia in Los Angeles.⁸⁶ In August, the Associated Press reported two rare diseases which had infected over 100 gay men, killing half of them.⁸⁷ This disease would later become known as the Human Immunodeficiency Virus or HIV,⁸⁸ an autoimmune disorder that, when developed into AIDS, severely impedes the human immune system, leading almost certainly to illness and, at that time, death.⁸⁹

In the beginning, very little was known about the mysterious illness, but with the help of the media, the public believed HIV/AIDS to be a “gay disease”;⁹⁰ some would go so far as to declare HIV/AIDS to be a sign of immoral behavior.

However, there was one exceptional case that broke the public’s misconception of AIDS - the case of Ryan White. Ryan White, a child, contracted the HIV/AIDS from a blood transfusion, which shattered the public’s misconception that the disease was only transmitted within the gay community, or as a result of homosexual relationships.⁹¹

In response to the crisis, Congress began to initiate safe sex campaigns with the message that “everyone was involved” in the crisis.⁹² However, there were significant problems with the campaigns. First, the government diverted money from the campaigns to prioritize the treatment of college students or heterosexual women instead of afflicted members of the homosexual community.⁹³ Even then, campaigns targeting the homosexual community would only target white gay communities,⁹⁴ leaving African American communities out of the equation entirely, and with a lack of information. Some organizations believed that the government was diverting money from the communities who needed that help the most. In the end, the budget was depleted, leaving underprivileged communities in competition for leftover money from the government budget.⁹⁵

85 “The Reagan Years: 1980s: Growth of a Community: Gay Life from Local Theatre to International Sports Games.” Progressive Era: 1890–1920s: Progressive Political Reform | Picture This. Accessed December 18, 2018.

86 “History of HIV and AIDS Overview.” AVERT. November 26, 2018. Accessed December 19, 2018. <https://www.avert.org/professionals/history-hiv-aids/overview>.

87 Geiling, Natasha. “The Confusing and At-Times Counterproductive 1980s Response to the AIDS Epidemic.” Smithsonian.com. December 04, 2013. Accessed December 18, 2018. <https://www.smithsonianmag.com/history/the-confusing-and-at-times-counterproductive-1980s-response-to-the-aids-epidemic-180948611/>.

88 CDC. “What Are HIV and AIDS?” HIV.gov. February 21, 2018. Accessed January 02, 2019. <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/what-are-hiv-and-aids>.

89 “History of HIV and AIDS Overview.” AVERT.

90 Wright, Joe. “Remembering the Early Days of ‘Gay Cancer.’” NPR. May 08, 2006. Accessed January 17, 2019. <https://www.npr.org/templates/story/story.php?storyId=5391495>.

91 “Gay Men and the History of the Ryan White HIV/AIDS Program”. Ryan White. https://hab.hrsa.gov/livinghistory/issues/gaymen_1.html (accessed January 22, 2019).

92 Geiling, The Counterproductive 1980s Response to the AIDS

93 Ibid.

94 Ibid.

95 Geiling, The Counterproductive 1980s Response to the AIDS

Furthermore, the campaigns initiated a fear of sexual interactions rather than focusing on how safe sex can be initiated.⁹⁶ Posters did not inform the public how to prevent HIV/AIDS or provide information about the disease in general, instead focusing on abstinence.

For these reasons, the 1980s was an era full of the misinformation about AIDS in America, a tragedy compounded with a tragedy within the homosexual community.

Keith Haring

When Keith Haring entered the mainstream, the public's conception of both homosexuality and HIV/AIDS was immediately challenged, since the young artist was fully open about possessing both of these things.⁹⁷ Born in 1958, Haring grew up in a religious and conservative environment, an environment to which he eventually rebelled. He later went on to attend the Ivy School of Professional Art⁹⁸ but eventually dropped out,⁹⁹ aiming to move to New York City, which was at the vanguard of the pop art scene at the time.

Street Art

What was perhaps most notable of Keith Haring as an artist was that his messages were publicized in a way that linked the mainstream easily to his artwork, both in medium and in accessibility.¹⁰⁰ This connection to the public can still be observed in his breakthrough art: his subway drawings.¹⁰¹ Haring drew on top of the black sheets of paper that he used to cover the unused advertisement space inside the New York City subway stations. On each makeshift mural, he would leave as many as forty drawings in his bold, signature style.¹⁰² However, these drawings would soon lead to Haring's first encounters with the police, as such art was considered vandalism of public property. As a result, Haring would appear in the news, leading to even greater notoriety and public intrigue.¹⁰³

As Haring gained fame and influence, he began to receive commissions to design advertisements for companies such as Swatch (see Appendix A)¹⁰⁴ and Absolut Vodka (see Appendix B).¹⁰⁵ He also designed album covers for David Bowie and Peech Boys, which further garnered public attention (see Appendix C).

96 Ibid.

97 Haring, Keith. "Keith Haring, An Intimate Conversation." Interview by David Sheff. Rolling Stone, August 1989.

98 "Keith Haring's Life and Legacy." The Art Story. Accessed January 17, 2019. <https://www.theartstory.org/artist-haring-keith-life-and-legacy.htm>.

99 Haring "Keith Haring, An Intimate Conversation." Interview by David Sheff. Rolling Stone

100 Phelan, Ben. "Keith Haring: How Graffiti Entered Mainstream." PBS. January 9, 2018. Accessed January 17, 2019. <http://www.pbs.org/wgbh/roadshow/stories/articles/2015/10/26/keith-haring-how-graffiti-entered-mainstream>.

101 Ibid.

102 Slesin, Suzanne. "An Artist Turns Retailer." The New York Times, April 18, 1986. <https://www.nytimes.com/1986/04/18/style/an-artist-turns-retailer.html>.

103 Ibid.

104 Haring, Keith. Swatch, 1984. 1984.

105 Haring, Keith. Absolut Haring Absolut Vodka. 1986

Though these artworks did connect him to the public, his most famous contribution to the art world is considered Pop Shop,¹⁰⁶ which transformed Haring into the mainstream artist we remember today.

The premise of Pop Shop was simple. Opened in 1986 in downtown Manhattan,¹⁰⁷ Pop Shop was a boutique shop selling gift cards and affordable clothes featuring his signature artwork and icons for public purchase. Critics would point out how Keith Haring became a ‘sell out’,¹⁰⁸ claiming that he was tarnishing the intent of art for economic purposes. The New York Times said, “Mr.

Haring used to offer his art free on subway walls. Now he sells it for five-figure sums. Mr. Haring also used to give away his pins, jigsaw puzzles and comic books, which are now for sale at the shop.”¹⁰⁹

However, this issue was not the case. Haring offered the following rebuttal:

“I wanted to continue this same sort of communication as with the subway drawings. I wanted to attract the same wide range of people, and I wanted it to be a place where, yes, not only collectors could come, but also kids from the Bronx. The main point was that we didn’t produce things that would cheapen art. In other words, this was still an art statement.”¹¹⁰

Keith Haring was right; unlike the expensive works of art that were unavailable to the public at the time through private galleries and auctions, Pop Shop’s items were an extension of his artwork that the public could keep in touch with. He maintained the integrity of his message by keeping the meaning of his art-keeping in touch with the public with his messages.¹¹¹

Indeed, Keith Haring was considered the very definition of a mainstream artist: an artist visible to the public eye with his ads, his easily visible displays the NYC subways, and his accessible items for sale.

Political Activism

Haring’s mainstream appeal was certainly one key aspect of his artworks, but the political messages embedded in his artwork were what transformed him from pop art icon to activist hero.

One major work of art that illustrates Haring’s political leanings is called Free South Africa(see Appendix D),¹¹² an artwork showcasing a white stick man controlling a giant black stick man on a leash. The artwork signifies how the dominant white men were oppressing the black population

106 “The Pop Shop.” New York History. Accessed January 17, 2019. <http://m.nyhistory.org/exhibition/pop-shop>.

107 Slesin, Suzanne. “An Artist Turns Retailer.” The New York Times, April 18, 1986. <https://www.nytimes.com/1986/04/18/style/an-artist-turns-retailer.html>.

108 Higgins, Tim. “Selling, Not A Sell Out Keith Haring Draws A Line Between Himself And The Art World.” Tribun-edigital-mcall. September 18, 1987. Accessed January 17, 2019. http://articles.mcall.com/1987-09-18/entertainment/2585005_1_keith-haring-kutztown-new-arts-program-soho-galleries/2.

109 Gross, Michael. “Notes on Fashion.” The New York Times, April 22, 1986. <https://www.nytimes.com/1986/04/22/style/notes-on-fashion.html>.

110 Gross, “Notes on Fashion,” The New York Times (April 22, 1986)

111 “The Pop Shop.” New York History.

112 “Keith Haring Most Important Art.” The Art Story. Accessed December 19, 2018. <https://www.m.theartstory.org/artist-haring-keith-artworks.htm>

in South Africa. Keith Haring printed 20,000 posters in New York City to mobilize support against apartheid, a major political issue of the time. He would then paint a mural featuring the flags of both West and East Germany (see Appendix E) on the Berlin Wall, a move to advocate the reunification of both countries.¹¹³

However, the political aspect of his artwork would reach its zenith in the year of 1987-- the year when Haring was diagnosed with HIV/AIDS.¹¹⁴

AIDS Diagnosis and the Safe Sex Movement

Even before his diagnosis, Keith Haring described how he believed that he had HIV/AIDS¹¹⁵. But after his diagnosis, Keith Haring became even more open about his relationships and his own interpretations of the HIV/AIDS crisis.

What helped Keith Haring's AIDS campaign stand out from the others was its explicitness - explicitness that was missing in many of the campaigns at the time, which were predominantly filled with messages of abstinence, or sterilized iterations of the illness. The campaign was filled to the brim with images of penises and condoms-images that were recongnized as inappropriate for campaignig at the time. For example, one of his posters features a penis saying "safe sex" with a condom in its hand.

Haring stated that he believed it was "important for people to know what AIDS is and what it isn't"¹¹⁶ That is, it was important to Haring that people understood how the disease was transmitted and how people may protect themselves from contracting it.

In spite of the taboo nature of his campaign, it was a wild success. Keith Haring later discussed how, "teachers everywhere ask me for safe-sex stickers. In fact, when people are treated as if they have some intelligence and are given explicit information, they appreciate it. And it's the only thing that gets through to kids, the people that need it."¹¹⁷

One of his famous artwork, *silence = death*¹¹⁸, (see appendix A) conveys the notion that people are not receptive to hearing about or discussing the issue of AIDS by portraying stick figures covering their ears and mouths. The pink in the artwork is also said to symbolize femininity and homosexuality.¹¹⁹

113 "Keith Haring Paints Mural on Berlin Wall." *The New York Times*, October 24, 1986. <https://www.nytimes.com/1986/10/24/arts/keith-haring-paints-mural-on-berlin-wall.html>.

114 "Gay Art Legend Keith Haring." *Ending HIV 2020*. September 16, 2016. Accessed November 20, 2018. <https://endinghiv.org.au/blog/legends-keith-haring/>.

115 Haring "Keith Haring, An Intimate Conversation." Interview by David Sheff.

116 Haring "Keith Haring, An Intimate Conversation." Interview by David Sheff.

117 Ibid.

118 Stuhltrager, Kirsten Ann. "Keith Haring's AIDS Activism." *Queer Culture Collection*. December 13, 2015. Accessed November 20, 2018. <https://sites.psu.edu/245spring2015/2015/12/13/keith-harings-aids-activism/>.

119 Myers, Zachary. "Fighting AIDS through Art: How Keith Haring Pioneered LGBT Visibility." *Varsity*. June 4, 2018. Accessed January 17, 2019. <https://www.Varsity.co.uk/arts/15755>.

A similar work of art, Ignorance=fear, Silence = Death (see Appendix F), is titled rather literally and is meant to demonstrate how ignorance of HIV/AIDS has led to an atmosphere of fear, an idea which further helped bring awareness of this public health epidemic to the mainstream. On the same topic, but with a different approach is Haring's famous character, Debbie Dick (see Appendix G),¹²⁰ which was intended to imbue a sense of humor¹²¹ to the AIDS message through a funny character that the public could enjoy.

Although very different, both pieces convey a public misunderstanding about HIV/AIDS and helped to make the public more comfortable with addressing the problem.¹²² On the matter, Haring said:

*"I think one of the hardest things AIDS has done is to kids growing up now, trying to figure out their sexuality in an unbiased way. . . There are so few people who are good openly gay role models or just good people who are respected who are open about their sexuality. Now there has to be openness about all these issues. Kids are going to have sex, so help them have safe sex."*¹²³

With his mainstream appeal and his straightforward messages, Keith Haring shed a proper light on the HIV/AIDS issue. His advocacy of an open discussion about HIV/AIDS was a crucial message that the misinformed public needed, especially the younger generation of homosexual men and women who lacked role models.

Indeed, Keith Haring's blatant imagery and his outspoken attitudes on HIV/AIDS was a triumph both within the LGBTQ community and in the mainstream.

Keith Haring's Tragic Death and the End of the HIV/AIDS Crisis

On February 16, 1990, Keith Haring was found dead in his apartment in New York,¹²⁴ officially due to complications related to AIDS.

Certainly, the death of Keith Haring is befitting of a tragedy. Dead at the age of 32, Keith Haring had his prolific career met with a sudden break-- an abrupt end to his messages about HIV/AIDS at a time when they were desperately needed.

However, as 1980s drew to a close, the prospects of the HIV/AIDS crisis were improving, in part thanks to the visibility and advocacy of artists and leaders like Keith Haring.¹²⁵

In 1991, the Red Ribbon Project,¹²⁶ inspired by the yellow ribbon project, made red ribbons as symbols for HIV/AIDS awareness, spreading the word just as Haring did with his pop art. In the same year,

120 Haring "Keith Haring, An Intimate Conversation." Interview by David Sheff.

121 Ibid.

122 "Keith Haring Most Important Art." The Art Story.

123 Ibid.

124 "Keith Haring Most Important Art." The Art Story.

125 "1990s HIV/AIDS Timeline." American Psychological Association. Accessed January 17, 2019. <https://www.apa.org/pi/aids/youth/nineties-timeline.aspx>.

126 "The Red Ribbon Project." Visual AIDS. June 19, 2018. Accessed January 17, 2019. <https://visualaids.org/projects/the-red-ribbon-project>.

famous basketball player Earvin Johnson (also called Magic Johnson) announced he had been diagnosed with HIV¹²⁷, an announcement that dispelled the belief that AIDS was necessarily a gay disease for the time.

Finally, with the introduction of HAART¹²⁸ in 1995, the amounts of deaths from HIV/AIDS significantly decreased in the west; the crisis of the 80s was officially over.

Keith Haring's Legacy

Keith Haring's impact is still engraved upon our society today. Artistically, Keith Haring gave street art a certain level of legitimacy, allowing his work and similar works to be displayed in galleries and museums. His critique of society in his cartoon like figures paved ways for shows like *The Simpsons*¹²⁹ -- a subversive cartoon about American society and tropes. His public art hangs in dozens of orphanages, day care centers, charities, and hospitals, particularly those that serve underprivileged youth.

Haring's work has also been imprinted in the fashion industry with famous designers: Stephen Sprouse¹³⁰, Vivienne Westwood¹³¹, and Stuart Vevers,¹³² each of whom has manufactured garments inspired by his bold lines and outspoken political views.

His foundation, the Keith Haring Foundation an organization founded in 1989 by Keith Haring himself, still continually provides opportunities for the underprivileged children and prevention and care to the AIDS/HIV. He even has a musical called *Radiant Baby*,¹³³ which is based on the story of his life.

Clearly, Keith Haring, though gone from the world, is a pop icon still impactful in our society. His works left an imprint upon the world that street art could be held in the same regard as fine art

127 Diamond, Jason. "Flashback: Magic Johnson Makes Earth-Shattering HIV Announcement." *Rolling Stone*. June 25, 2018. Accessed January 17, 2019. <https://www.rollingstone.com/culture/culture-sports/flashback-magic-johnson-makes-earth-shattering-hiv-announcement-107302/>.

128 "What Is HAART?" National Institute on Drug Abuse. July 2012. Accessed January 17, 2019. <https://www.drugabuse.gov/publications/research-reports/hiv-aids/what-haart>.

129 "Keith Haring's Life and Legacy." *The Art Story*. Accessed January 17, 2019. <https://www.theartstory.org/artist-haring-keith-life-and-legacy.htm>.

130 Keith Haring | Stephen Sprouse X Keith Haring Graffiti Cock Dress (1988) | Artsy." *Artsy*. Accessed January 17, 2019. <https://www.artsy.net/artwork/keith-haring-stephen-sprouse-x-keith-haring-graffiti-cock-dress>.

131 "'Keith Haring.'" *The Met*. Accessed January 17, 2019. <https://www.metmuseum.org/art/collection/search/129624>.

132 "COACH: Coach X Keith Haring." *COACH*. Accessed January 17, 2019. <https://www.coach.com/shop/featured-coach-x-keith-haring>.

133 Brantley, Ben. "THEATER REVIEW; An Artist's Energy, Subdued Only by Death." *The New York Times*. March 03, 2003. Accessed October 24, 2018. https://www.nytimes.com/2003/03/03/theater/theater-review-an-artist-s-energy-subdued-only-by-death.html?rref=collection/timestopic/Haring,Keith&action=click&contentCollection=timestopics&ion=stream&module=stream_unit&version=latest&contentPlacement=45&pgtype=collection.

Triumph and Tragedy

In retrospect, some people may consider Keith Haring's story to be quite a tragedy. Though his artworks impacted the cultural climate at the time, fear and homophobia still surrounds the topic of HIV/AIDS today. In many parts of the world, people are still misinformed¹³⁴ about HIV/AIDs and spread these misinformed facts with homophobia today.

However, Keith Haring's legacy remains a triumph, in that his messages still reach a mainstream audience today. His artworks, timeless, remain a constant message of hope and activism.

134 "HIV Stigma and Discrimination." AVERT. April 09, 2018. Accessed January 17, 2019. <https://www.avert.org/professionals/hiv-social-issues/stigma-discrimination>.

Appendix A



Keith Haring, Swatch, 1984, Color Silkscreen.

The image is a Swatch advertisement made by Keith Haring. The ad has to do with Swatch promoting a world breakdance championship at the Roxy September 20.

Appendix B



Keith Haring, Absolut Haring Absolut Vodka, Acrylic on paper.

The image is an advertisement made by Keith Haring promoting Absolut Vodka. The painting is not the original but a poster copy of it in the Keith Haring's Seoul exhibition.

Appendix C



Fig. 1 Keith Haring, “Life is Something Special”. Fig. 2 Keith Haring, “Without You/Criminal End”

These images show Keith Haring’s album art. The blue album cover is for the Peech Boys’ Life is Something Special and the orange album cover is for David Bowie’s Without You showcased at the Keith Haring’s Seoul exhibition.

Appendix D



Keith Haring, "Free South Africa", Linograph on paper. 1985.

The image displays a painting from Keith Haring named "Free South Africa" that was showcased in Keith Haring's Seoul exhibition. The image shows the white minority controlling the white majority.

Appendix E



Source: Mundy, Jennifer. "Lost Art: Keith Haring." Tate. Accessed January 20, 2019. <https://www.tate.org.uk/context-comment/articles/gallery-lost-art-keith-haring>.

This image is a mural that Keith Haring painted. The mural uses red, yellow, and black to symbolize the flag of Germany.

Appendix F



Haring, Keith. "Ignorance=Fear, Silence=death." Acrylic on paper.

This image is a painting made by Keith Haring about the fight against AIDS.

References

Primary Sources:

Diamond, Jason. "Flashback: Magic Johnson Makes Earth-Shattering HIV Announcement." *Rolling Stone*. June 25, 2018. <https://www.rollingstone.com/culture/culture-sports/flashback-magic-johnson-makes-earth-shattering-hiv-announcement-107302/> (accessed January 22, 2019). The article reports on the moment that Magic Johnson (a famous NBA player at his time) announced that he had HIV/AIDS. The article provides a video of him coming out with the information at the time. The incident provides a primary resource (a video at the time he came out with the information). His announcement served to change people perspective about the diseases; most had thought only gay men could contract the virus, Magic Johnson proved them wrong. His announcement was significant because –without mincing words– he was able to establish the difference between HIV and AIDS to the public, and also corrected the notion that it was a gay disease.

Gross, Michael. "Notes on Fashion." *The New York Times*, April 22, 1986. <https://www.nytimes.com/1986/04/22/style/notes-on-fashion.html> (accessed January 22, 2019). The article describes the unification of the fashion industry in a effort to contribute to the swift eradication of the HIV virus at the time. Top designers like Calvin Klein and moguls from different industries including the entertainment, business and fashion industries united to give their quota in the struggle. The article is a criticism against Keith Haring's works in Pop Shop at the time. The article points out flaws in Keith Haring's argument in Pop Shop. Quotes of the article could be cited to point out the criticism against Keith Haring's Pop Shop.

Haring, Keith. *Absolut Haring Absolut Vodka*. 1986

The artwork is included in the report in order to cite with valid evidence that Keith Haring made ads that were in the public eyes at the time. The artwork was helpful in that it gave a valid source that Keith Haring indeed made ads at the time.

Haring, Keith A. "Artist Journals." Haring 2018. (1987).

Though I did not include the source in my research paper, the journals have insight of how Keith Haring formed his artworks at the time. The journal includes information about Keith Haring's daily life; the journal is essentially his diary (including information about Warhol and his friends). The text is a more unprocessed version of Keith Haring, allowing for context of some of his artworks and feelings at the time. He takes us through his meetings, his business, his friends and acquaintances at that time. Also, we're exposed, first-hand, to the kind of conversation he truly valued and his tone of voice. The journal could be used to provide in depth quotes about his political ideas and his personal life. It depicts his thought process and his creative process. It reveals his own judgment of his work during and after the work is completed. It exposes his first impressions of people he met, how he met them and his social circle.

Haring, Keith A. Interview by David Sheff. Keith Haring, An Intimate Conversation. *Rolling Stone*, August 1989.

The interview provides a range of information about his lifetime just before his death. The interview provides Keith Haring's feelings about his diagnosis of AIDS. More specifically, the article focuses on how Keith Haring became the politically active artist he is. The interview also provides insight of how Keith Haring was inspired to create his own art style at an early age. The interviewer directs in-depth questions to Keith Haring about his openness with his homosexuality. This insight allowed us to be informed of how Keith Haring grew up to be a substantial artist such and how he was politically aware even from a young age. The interview also provided information about Debbie Dick- a character Keith Haring made to communicate

his AIDS message in a comedic way. Many parts of the interview provide information about Keith Haring's reaction to the HIV/AIDS crisis. Most quotes from Keith Haring are from this interview. Keith Haring states about his Pop Shop and most of his feelings about the HIV/AIDS crisis in the interview.

Haring, Keith A. Interview with Sylvie Couderc. Interview with Keith Haring (1985). http://www.capc-bordeaux.fr/sites/capc-bordeaux.fr/files/The_Ten_Commandments_Interview_with_Keith_Haring.pdf

This interview specifically introduces substantial information about Keith Haring's childhood; in addition, the interview provides additional information about how Keith Haring was inspired to create art, his inspirations, and his experience with "dream work". The interview also provides the stems of Keith Haring's political activeness. Furthermore, Keith Haring presents his interpretation of what art means to him as an artist as well as his opinion of an artist's role in the society as an expository tool that is meant to help people come to realization with things they would normally ignore. The information could be used into creating an explanation of how Keith Haring became the artist he is today, and the overall context of him becoming an artist. The ideas expressed therein are still relevant nowadays: color meaning for example, he believed red was a strong powerful color and that color can be used negatively and to depict evil. Another one being his thoughts on media, being a primary source of information, being American.

Haring, Keith. Interview by Jason Rubell. Keith Haring: The Last Interview. *Arts Magazine*, September 1990, 52-59.

The interview provided information about Keith Haring's perspective of creating art. The interview answers questions about Keith Haring before his death. The interview provides Keith Haring's personal thoughts of his friends (Andy Warhol and Jean Michel Basquiat), the intensity in his artwork, the acceptance of Andy's work, how deeply he missed Andy, how much he respected Basquiat work and the 80s in general. Specifically, the interview provided meaningful information about what Keith Haring believes of what creating artwork means to him as an artist. His reaction to questions regarding commodity in artworks highlights how he formed the idea of Pop Shop. The interview allows an explanation of Keith Haring's processes in creating his artworks and an overview of his life. We also get a picture of the in-the-moment inspirations that surrounds his work. Also, throughout the interview, we get a vivid picture of a mostly humble artist that is coherent with his expectations of life and his work from other sources.

Haring, Keith. **Swatch, 1984**. 1984.

The citation is for Keith Haring's Swatch advertisement. The artwork is from Keith Haring himself; thus, the artwork is a valid primary source use to cite how he was a mainstream artist connected to the public using ads.

Higgins, Tim. "Selling, Not A Sell Out Keith Haring Draws A Line Between Himself And The Art World." *Tribunedigital-mcall*. September 18, 1987. Accessed January 17, 2019. http://articles.mcall.com/1987-09-18/entertainment/2585005_1_keith-haring-kutztown-new-arts-program-soho-galleries/2.

The article describes how Keith Haring responded to the criticisms against Pop Shop. The article first presents the criticism against Keith Haring's Pop Shop (about Keith Haring becoming a sellout). The article includes quotes from Keith Haring himself (containing information of how Keith Haring was influenced by Andy Warhol).

Slesin, Suzanne. "An Artist Turns Retailer." *The New York Times*, April 18, 1986. <https://www.nytimes.com/1986/04/18/style/an-artist-turns-retailer.html> (accessed January 22, 2019).

The article was written at the time Keith Haring opened his Pop Shop. The information provides an introduction to the Pop Shop at the time. Descriptions, such as what the Pop Shop sold were included in the article. In the article, we learn of his reasons for the Pop Shop: to fulfill his lifelong childhood dream and to show people the original versions of his work so as to subdue the fake versions that were circulating at the time. This newspaper article tells us of the design of the shop and the creative design work done by Keith Haring himself. We are also enlightened of how he endeavored to differentiate the Pop Shop from a cloth store saying "This is more like a Brookstone shop". The article also includes quotes from Keith Haring. The information can be used to gain an insight into Haring's original intent for the shop. The article does well to give exact prices of items in the Pop Shop, giving an opportunity for comparison with present day prices, especially for street wear clothing, as his brand would have been called now.

The New York Times. "Keith Haring Paints Mural on Berlin Wall." October 24, 1986. <https://www.nytimes.com/1986/10/24/arts/keith-haring-paints-mural-on-berlin-wall.html> (accessed January 22, 2019).

The article provides insight of how Keith Haring helped paint a mural on the Berlin Wall. The information gives quotes and specific details of the painting that make Keith Haring's art stand out. The writer praised his valor as he was technically painting on East Berlin's land and entering their border without a Visa. He taunted the East Berlin's border guards by swiftly moving out of their territory back in the West when they made a move to arrest him. The writer tells us his intentions were purely to paint a symbol of hope for the unification of the divided

East and West Germany. The writer did a good job of describing the scenario in detail, not missing out important details about the drawing itself including start and finish times, size of the mural etc. The information could have been included for Keith Haring's political activities; however, the information was cut out based on Keith Haring's other notable political activities.

Yarrow, Andrew L. "Keith Haring, Artist, Dies at 31; Career Began in Subway Graffiti." *The New York Times*, February 17, 1990, 001033. <https://www.nytimes.com/1990/02/17/obituaries/keith-haring-artist-dies-at-31-career-began-in-subway-graffiti.html> (accessed January 22, 2019). The newspaper was written at the time of his death. Furthermore, the article gives a basic overview of Keith Haring's life. The article information provides an insight of how Keith Haring achieved a great level of fame with his artwork, which is consisted of simple lines. The source also proves insight of how the press reacted at the time of his death. The article eulogizes his bravery with his work despite several arrests for criminal mischief. It goes on to give an overview of who he spent his life of fame with: Andy Warhol, Yoko Ono, Kenny Scharf and Boy George. It also reports countries he travelled to for his work: ranging from Sao Paulo to Venice and Amsterdam. We are also exposed to the social causes he partook in with his art: Child healthcare, HIV/AIDs and anti-apartheid causes. We see an account of the reaction of his fans and critics at the news of his death. Also a New York Times Post gives reports of his travel and elite social circle a stronger validation. The article, however, could have included details of his burial, time of death or cause of death, a big shortcoming being an obituary.

Secondary sources:

"Keith Haring." *The Met*. <https://www.metmuseum.org/art/collection/search/129624> (accessed January 17, 2019).

The website provides an image with Vivienne Westwood's clothes called Keith Haring. The image shows how Keith Haring left impressions towards famous fashion designers in the industry; thus, the image showcases how Keith Haring is the Pop icon he is. The page features four items on sale that were obviously inspired by his work; the resemblance was uncanny. The article contains links to other items that were also inspired by his art: Ensemble, Diablo and Skirt to name a few. All of which contained his eye-catching patterns and style. This is one of the plethora of evidence that his work is still well appreciated even in this decade. And it proves the point he was trying to make when he was accused of commercializing his art; if he wanted to make more money, he would have simply made more clothes. The designer does well in referencing Haring and naming the piece after him.

"1990s HIV/AIDS Timeline." *American Psychological Association*. <https://www.apa.org/pi/aids/youth/nineties-timeline.aspx>. (accessed January 17, 2019).

The timeline presents important events in the 1990s relating to HIV/AIDS in a chronological order. Though the website does not include detailed information regarding the 1990s HIV/AIDS epidemic, the timeline presents a basic overview of the whole crisis. Throughout the article, we are exposed to statistics, processes including organizations and people that contributed to the research, awareness and sensitization for H.I.V in that period. The website helps for creating a small description about the HIV/AIDS epidemic in the 1990s. It has many quotable sentences and paragraphs that would contribute to the understanding of the history of H.I.V.

"50 Years of Gays in the Media & in the Streets: The 1980's." *The Pacific Center*. May 21, 2014. <http://pacificcenter.org/50-years-of-gays-in-the-media-in-the-streets-the-1980s> (accessed January

10, 2019).

The website provides an overview of the media portrayal of the homosexual community during the 1980s. The website bolstered my understanding of the homosexual community and the political climate at the time. The website lists movies that were released at the time illustrating different reactions to the homosexual society, some favorable and even comical; like the Torch Song Trilogy, and some were brutal; like Al Pacino's film, "Cruising". Other respected figures like Catholic Pope John Paul II also took made unfavorable remarks against the gays at the time. However the gay community attempted to utilize the attention to change the landscape of gay history. But its situation only worsened with the breakout of H.I.V among the gay community from whence came the first name given to the virus; G.R.I.D meaning Gay- Related Immune Deficiency. It is a quotable piece and it does well to detail the struggle of the gay community, a struggle that has extended into the present. It is relevant to the subject matter as it helps to understand the environment Haring must have grown up in before discovering his sexual orientation. However, it doesn't mention Haring himself.

"A Timeline of HIV and AIDS." HIV.gov. September 25, 2018. Accessed October 24, 2018. <https://www.hiv.gov/hiv-basics/overview/history/hiv-and-aids-timeline>.

The website provides a basic overview of the HIV/AIDS epidemic. The timeline provides a nice introduction and conclusion the 80s crisis as well as providing information about the HIV/AIDS during the 90s. The information provides information about the essential facts such as the death and spread of HIV/AIDS at the time. For example, the website prices the dates of when and how the CDC would react to the whole crisis as well as major death counts of the HIV/Aids patients at the time. The website provides a chronological order of specific details about the whole crisis in the 80s and further on. The website helped shape my introduction and as well as my conclusion to my research paper.

"A timeline of Lesbian, Gay, Bisexual, and Transsexual History in the United States"States. Gsafe. <https://www.gsafewi.org/wp-content/uploads/US-LGBT-Timeline-UPDATED.pdf> (accessed January 22, 2019).

This is a collation of the unique timeline of the LGBT society in the United States. It documents events, venues, dates, and action taken as far back as 1624 till 2008. It recorded the time in 1636 when a certain Reverend John Cotton proposed including sexual relations between two women as part of the definition of sodomy for the first time. It contains many variants of interesting events from anti-gay laws to a governor being accused of dressing like a woman to hold court, to the arrest of a man who was – upon arrest – discovered to be a woman in 1894. This documents has an everlasting relevance to this subject matter, to the LGBT society and the world at large. It proves the longstanding but suppressed presence of the members of that society. It also has various quotable portions for many occasions.

"AIDS Art Movement." Aart. <https://sites.psu.edu/art101/2017/03/23/aids/> (accessed January 18, 2019).

The website provides information about the AIDS art movement. The movement relates to information about Keith Haring's artworks that contribute to the 80s HIV/AIDS crisis at the time. The article also emphasizes on the role the Red Ribbon played in creating awareness nationwide for HIV/AIDS. Starting from New York, the ribbon became a prominent tool in campaigning for HIV/AIDS awareness all over the country. It talks about Keith Haring's input

and how his imagery and the pink triangle he created to represent the virus helped reduce stigmatization and increased general awareness that made a difference.

All Things Considered. May 8, 2006. <https://www.npr.org/templates/story/story.php?storyId=5391495>.

The interview accounts an experience of Joe Wright at the time of the HIV/AIDS crisis. He explains how the disease was called as a “gay cancer”; thus, the radio transcript gave me information about how HIV/AIDS crisis has homophobic overtones as it was labeled as a “gay disease” in its time.

Brantley, Ben. “THEATER REVIEW; An Artist’s Energy, Subdued Only by Death.” *The New York Times*. March 03, 2003. https://www.nytimes.com/2003/03/03/theater/theater-review-an-artist-s-energy-subdued-only-by-death.html?rref=collection/timestopic/Haring,Keith&action=click&contentCollection=ti+mestopics®ion=stream&module=stream_unit&version=latest&contentPlacement=45&pg+type=collection (accessed October 24, 2018).

The article gives an account of a musical that held on March 2, 2003 at Joseph Papp Public Theatre. The work of George Wolfe, the musical showcases the life and death of Keith Haring. Wolfe attempted to narrate a story that left out no part of Keith Haring’s life; he opened the show with three children that were revealed to represent the art, life, and world of Keith Haring. Though set in his later years the show captures his lifestyle with comical elements and a ritualistic staging that made the show enjoyable for all. The website provided insight of how Keith Haring still lives on today’s society with his musical. Without the website, I would have not realized that there was a musical about Keith Haring. The review provides insight of how Keith Haring’s activism and interaction to the public still exists even with other mediums.

CDC. “What Are HIV and AIDS?” *HIV.gov*. February 21, 2018. Accessed January 02, 2019. <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/what-are-hiv-and-aids>.

The website was helpful in that the website gave information about what HIV/AIDS specifically is. The website defines HIV/AIDS (about how the disease affects the body). The website was helpful in that the website provided information about HIV/AIDS in a more medical viewpoint.

“COACH: Coach X Keith Haring.” *COACH*. <https://www.coach.com/shop/featured-coach-x-keith-haring>. (accessed January 17, 2019).

The website provides evidence between the collaboration between Keith Haring and Coach. The information provides evidence of how Keith Haring remains influential in the fashion industry even today. It’s a gallery of products by Coach with similar traits found in Haring’s work: bright colors, instant recognition and the use of simple lines.

The page’s shortcoming is that it contains few words and fails to make any verbal or direct reference to its inspirations from Haring’s work.

Diamond, Jason. “Flashback: Magic Johnson Makes Earth-Shattering HIV Announcement.” *Rolling Stone*. June 25, 2018. Accessed January 17, 2019. <https://www.rollingstone.com/culture/culture-sports/flashback-magic-johnson-makes-earth-shattering-hiv-announcement-107302/>.

The website was helpful in that the source cited a video with Magic Johnson making the

announcement that he was contracted with AIDS. The website provided helpful information in that the website gave me the specific details of how Magic Johnson's coming out was a huge deal at the time.

"Gay Art Legend Keith Haring." Ending HIV 2020. September 16, 2016. <https://endinghiv.org.au/blog/legends-keith-haring/> (accessed November 20, 2018).

The website provided insight of how Keith Haring's artwork communicated his messages about HIV/AIDS. More specifically, the website provides an analysis of how his artworks communicated his messages of HIV/AIDS with his simple lines. His contribution with his safe sex campaigns that were full of explicit images, are included in the website as well. The analysis of his contribution to the HIV/AIDS crisis is probably the most essential part of the website. For example, The Website mentions of how his artworks containing barking dogs sometimes containing pen uses illustrated the AIDS struggle at the time. The website also mentions how in Australia, it was not uncommon to see his designs in campaigns.

"Gay Men and the History of the Ryan White HIV/AIDS Program". Ryan White. https://hab.hrsa.gov/livinghistory/issues/gaymen_1.html (accessed January 22, 2019).

The documents specify how HIV/AIDS was first classified as a "gay disease" (gay cancer specifically). The assumptions were due to the fact that 71% of the 3064 infections reported were from gay men. The website shows users research that was done to prove this notion wrong and enlighten the reader on the risk it poses and how it is contracted. It mentions the contribution of various health institutions to the cause and how the Ryan White Program contributed immensely to saving the lives of gay men with HIV and how they plan to continue their good work. The article serves to show that there are active and ready systems in place that are willing to take care of gay men living with HIV. It serves to educate the public as well so as to avoid the ignorance of the old days that allowed a faster spread of the virus.

Geiling, Natasha. "The Confusing and At-Times Counterproductive 1980s Response to the AIDS Epidemic." Smithsonian.com. December 04, 2013. Accessed December 18, 2018. <https://www.smithsonianmag.com/history/the-confusing-and-at-times-counterproductive-1980s-response-to-the-aids-epidemic-180948611/>.

The article provides information about the government's reaction to the HIV/AIDS crisis. The website especially includes information about the counterproductive ways the government reacted to the crisis with ineffective campaigns. The website provides great information about the HIV/AIDS campaigns during the 1980s (government and nongovernmental). The details of the website provide a vivid picture of the crisis and the spreading of misinformation at the time. Specifically, the website provides the explanation of how the LGBTQ community was in a disadvantageous situation with the government blocking their support for campaigns (even when the crisis hit the community most severely). The website especially illustrates the flaws of the government and the misleading spread of information that occurred at the time (with their posters not describing HIV/AIDS at the time). The website also provides the difference between campaigns in different races as well in America. Furthermore, the website provides a detailed overview of the political climate at the time. The information mainly allows creating a context of the crisis at the time.

Hammond, Benjamin. "Exploring Keith Haring's Influence on Fashion." *AnotherMan*. March 1, 2018. <http://www.anothermanmag.com/style-grooming/10212/exploring-keith-harings-influence-on-fashion> (accessed January 18, 2019).

The magazine reports on Keith Haring's imprints in the fashion industry. The magazine insinuates that his art is still just as relevant in downtown New York, despite being dated. The magazine mentions a variety of artist that draws inspirations from his work decades after his death. Vevers incorporated the artist's style and instantly recognizable graphics for some of their S/S18 collection saying that Haring "was very much connected with real life, the everyday and the city". Finally we also get a brief expose on his journey to New York and how he may not have known how much value he would create or how deep an impact he would leave. The information could be used to form a part of Keith Haring's legacy regarding to his cultural impact to society. However, the information was cut down in order for the paper to be concise to the point.

Henry, Gerrit. "KEITH HARING: SUBWAYS ARE FOR DRAWING." *The Print Collector's Newsletter* 13, no. 2 (1982): 48. <http://www.jstor.org/stable/44131797>. (accessed January 22, 2019).

The website provides a detail overview of the subway drawings Keith Haring created at the beginning of his career. The website cites quotes from Keith Haring that reflect the intent behind his artworks in a clearer light. It was an insightful extension of the information other websites portrayed in a more general way.

"Heroes for an AIDS-Free Generation." Elizabeth Glaser Pediatric AIDS Foundation. <http://www.pedaids.org/what-you-can-do/aidsfreegen/> (accessed January 20, 2019).

The website is a symbol of the collaboration between Keith Haring Foundation and EGPAF, a leader in the fight against AIDS in children. The Keith Haring foundation donated \$1 million, and allowed them to use one of Keith Haring images on Shirts to raise awareness and resources for the initiative. The article presents celebrities wearing said t-shirts in support of the fight. The website provides information on how the Keith Haring Foundation is still relevant today. Their collaboration with the Elizabeth Glaser Pediatric AIDS foundation shows how Keith Haring is still relevant to find ways to help people with HIV/AIDS even after his death. The information could be included to explain how Keith Haring is still relevant in his after his death.

"History of HIV and AIDS Overview." AVERT. November 26, 2018. <https://www.avert.org/professionals/history-hiv-aids/overview> (accessed December 19, 2018).

The website presents a timeline of the HIV/AIDS crisis in general. The website gives statistical information about crisis from major researches. The website labels studies from the time that addressed major HIV/AIDS crisis events at the time. The history of HIV/AIDS in the 80s could be glimpsed through the article in some detail. The website could help in the formation of providing context of the HIV/AIDS crisis in the 80s.

"HIV and AIDS Timeline." | National Prevention Information Network. January 10, 17. Accessed January 02, 2019. <https://npin.cdc.gov/pages/hiv-and-aids-timeline>.

The website presents a timeline of the HIV/AIDS; however, the website cites different reports and images at the time that corroborate with each other to deliver the whole image of the HIV/AIDS crisis at the time. The website is helpful in that it cites major events that happened

almost each year in the HIV/AIDS crisis up to the present times. The website stands out in its use of images and its citation of governments reports at the time.

“HIV Stigma and Discrimination.” AVERT. April 09, 2018. Accessed January 17, 2019. <https://www.avert.org/professionals/hiv-social-issues/stigma-discrimination>.

The website presents information about the stigma and discrimination currently in society about HIV/AIDS today. The information sets up context of how society still faces a problem with HIV/AIDS and that the 1980s stigma is not completely gone today. The website was helpful in that it provides statistics and brief overview how society still faces with the same kind of issues from the 1980s today.

“How the Media Shapes Our Perception of HIV/AIDS.” Healthline. <https://www.healthline.com/health/media-and-perception-of-hiv-aids#progress> (accessed December 19, 2018). The website provides an overview of the media portrayal of HIV/AIDS starting from the late 1980s. The information illustrates a picture that the media did not portray HIV/AIDs in a (with the exception of Ryan White) in the late 1980s and early 1990s. Movies about HIV/AIDs are also provided; however, most of the movies were not included in the research paper.

Kan, Koon-Hwee. “Adolescents and Graffiti.” *Art Education* 54, no. 1 (2001): 18-23. <https://www.jstor.org/stable/3193889> (accessed January 22, 2019).

The journal defines the meaning of certain terms in Keith Haring’s world. He differentiates the meaning between private graffiti, public graffiti, gang graffiti, tags and pieces. It also explored why and how graffiti became art and its relation and roots in hip-hop. It tried to raise questions as to the possibility of including graffiti in the curriculum. The article voices opinions that are shared in present day art world as to the creative and educational use of graffiti in academic institutions. It also provides us with a mini-tutorial in the world of graffiti.

Kaplan, Stuart. “The Enduring Legacy of the 1969 Stonewall Riots.” ACLU of Oregon. June 10, 2014. Accessed January 02, 2019. <https://www.aclu-or.org/en/news/enduring-legacy-1969-stonewall-riots>.

The website describes the impact that the Stonewall Riots left to the community at the time. The website describes how the Stonewall Riots left the community to have more confrontational and outspoken ways to publicize their rights. The website was helpful in setting up the context of the gay community before the HIV/AIDS crisis.

“Keith Haring”. Thebroad.org. <https://www.thebroad.org/art/keith-haring> (accessed January 22, 2019).

The website provides a simple overview of his life and his contribution to the art industry. The article describes the art scene in New York at the time of Keith Haring’s arrival, and how he made his own start by moving art out of the gallery and museum, and bringing it closer to the public. His drawings, drawn with white chalk on black surfaces, were seen by thousands every day. The article also details Haring’s effort to transmit his muralist sensibilities to canvas, and it goes on to describe Red Room, 1988, with its meaning and references. The visual representations of his work in the article made it an interesting read, including a good collection of Haring’s work. Supporting his article with pictures, the author goes an extra mile in including the year, style of painting and dimensions, making it a useful resource in

finding out the original dimensions of his paintings as compared to the copies currently being distributed.

“Keith Haring, American Graffiti Artist, Sculptor, and Muralist”. thearthhistory.org. <https://www.thearthistory.org/artist-haring-keith.htm>. (accessed January 22, 2019).

The website includes information about Keith Haring’s major accomplishments, artworks, and impact. The website lists a number of events that showcases Keith Haring as a pop icon. The article informs us of how Haring managed to bring low art and non-art elements into high art museums and galleries. The author tells us of how Haring uses bright and artificial colors that are eye-catching, while being enjoyable to behold and communicating or addressing important issues in the society. The article contrasts Haring’s method of using simple and clean lines to breathe life into figuration with the more abstract and conceptual styles of generations that preceded him.

“Keith Haring | Stephen Sprouse X Keith Haring Graffiti Cock Dress (1988) | Artsy.” Artsy. <https://www.artsy.net/artwork/keith-haring-stephen-sprouse-x-keith-haring-graffitti-cock-dress>. (accessed January 17, 2019).

The website provides evidence of how Keith Haring was influential at the time. Stephen sprouse, a famous fashion designer, collaborated with Keith Haring in order to create a dress. The collaboration displays how Keith Haring is influential in the whole art industry, including the fashion industry. The page could pass as a lasting evidence of Keith’s influence even in death. There are various items on sale that were based on Keith’s graffiti. Other artists were represented as well but the page predominantly contained Keith-related designs.

“Keith Haring Studio & Foundation.” NYC LGBT Historic Sites Project. Accessed January 17, 2019. <https://www.nyclgbtsites.org/site/keith-haring-studio-foundation/>.

The website gave me information of how Pop Shop helped the LGBT community in a further landscape. The information was helpful in that it helped inform the importance of the Keith Haring to the LGBT community.

“Keith Haring’s Most Important Art.” The Art Story. <https://www.theartstory.org/artist-haring-keith-artworks.htm>. (accessed January 22, 2019).

The website provides a nice overview of Keith Haring’s artwork. Specially, the website provides an analysis for each artwork. The website provides explanation for his works such as Free South Africa and his Untitled works. The website paints a picture of the messages Keith Harding’s artwork conveyed at the time. The analysis provides an insight of how Keith Harding’s art benefitted the gay community with his messages of AIDS at the time.

“Keith Haring’s Life and Legacy.” The Art Story. <https://www.theartstory.org/artist-haring-keith-life-and-legacy.htm>. (accessed January 22, 2019).

The website notifies the audience about Keith Haring’s impact to the art industry. The website contains information of how his work influenced cartoons like The Simpsons to reach the mainstream. Article also includes information about how Keith Haring left an impact to street art, listing street artists such as Swoon that were influenced by his work. The article also includes a small biography about Keith Haring ranging from his childhood to his

mature period. The information could be used to form a conclusion about Keith Haring's impact in the art industry.

Kerr, Merrily. "Keith Haring's Pop Shop to Close." *Art on Paper* 9, no. 6 (2005): 16. <http://www.jstor.org/stable/24556537> (accessed January 22, 2019).

The paper refers to Haring's work as "instantly recognizable" with images like his famous barking dog gracing the walls of subway stations, nightclubs, cloths, bags and many other items. The author expressed Haring's intentions in opening his Prop Shop as innocent and that it was meant as an official outlet for his work. He also went on to say that the Pop Shop never made any profit and expressed Haring's decision to shut it down in September of 1986. The author successfully paints the pain it took Haring to close down a project he referred to as his dream, and reveals the reasoning behind the rationale. The author increases the article's authority and credibility by getting quotes from people that were close to Haring.

Killacky, John R. "The Political Provocations of Keith Haring." Walker Art Center. January 7, 2015. <https://walkerart.org/magazine/politics-keith-haring-2>. (accessed January 7, 2015).

The website includes information about Keith Haring's political activities during his time. The information contains images of his works criticizing Reagan, apartheid in South Africa, and HIV/AIDS crisis. The website could be used to create a basic overview of Keith Haring's political actions at the time.

Knight, Christopher. "Public Art, Remade by Keith Haring." Los Angeles Times, June 21, 1998. <http://articles.latimes.com/1998/jun/21/entertainment/ca-61989>.

The article provides a small explanation of how Keith Haring became. Though the explanation is short, it is one reason for his work's significance. Haring thought of himself as a public artist, but never in a one-dimensional sense of having to be publicly funded and thus bureaucratically hogtied. He had neither time nor temperament for that.

Maric, Bojan. "Art Rooted in Activism – Keith Haring." Widewalls. Accessed January 18, 2019. <https://www.widewalls.ch/art-rooted-in-activism-keith-haring/art-rooted-in-activism-the-legacy-of-keith-haring/>.

The website analyzes Keith Haring's political art. The source was helpful in that it helped me gain an understanding of what Keith Haring's artworks meant. It informs us of the relationship between art and activism. We learnt that more often than not, the artist doesn't intend to align with a greater cause but in the process of creation, he is drawn towards it. We get an insight into the context of the creative impulse, Haring's legacy from the author's perspective and how art and culture weaves into everyday life. Being a more recent article compared to most in this study, Maric was able to better capture an in-depth understanding of Haring's work, enabling him to form an opinion of his perspective and his legacy.

Myers, Zachary. "Fighting AIDS through Art: How Keith Haring Pioneered LGBT Visibility." Varsity. June 4, 2018. <https://www.varsity.co.uk/arts/15755>. <https://www.varsity.co.uk/arts/15755> (accessed January 17, 2019).

The website provides insightful analysis to Keith Haring's artworks. Specifically, the color Pink, a color that had developed associations of femininity and homosexuality, refuses to be

hidden. Through color alone Haring demands the recognition of sexuality amidst a political climate that would resign homosexuals to death and to silence. The layering of the silver figures that 'veil' the drawing creates incessant activity, despite its subject matter this drawing is flourishing with life. These lively cartoon-like characters are in constant motion, and are positioned in ways that they are seen to "see no evil, hear no evil, speak no evil."

Phelan, Ben. "Keith Haring: How Graffiti Entered Mainstream." PBS. January 9, 2018. <http://www.pbs.org/wgbh/roadshow/stories/articles/2015/10/26/keith-haring-how-graffiti-entered-mainstream>. (accessed January 17, 2019).

The article starts with an introduction of Banksy (real name unknown), who was well accepted graffiti artist that wasn't regarded as a criminal due to his trenchant sensibility and dark whimsy, compared to Keith Haring who was mainstream and had several arrest records. It then goes on to enlighten us on Keith's background, his inspirations and his subway escapades. His work was well appreciated and untouched despite being in public places like subways. The article finished up with a brief digression into his life as someone living with H.I.V. The article helps us learn how close Haring wanted his work to be to the public, and the political or social intent he had for every mural he drew. We learn of the essence of some of his most notable works like "Radiant Christ" and "Devil sperm".

Phillips, Natalie E. "The Radiant (Christ) Child: Keith Haring and the Jesus Movement." *American Art* 21, no. 3 (2007): 54-73. <http://www.jstor.org/stable/526480>. (accessed January 22, 2019).

The website informs the readers about the movement Keith Haring participated in (correlates to the Jesus movement). Though the website was helpful in informing the specifics of Keith Haring's major artwork, the website did not help me form parts of paper. The website helped in that the article increased my understanding behind Keith Haring's work.

Rochkind, Jonathan, Samantha DuPont, and Amber Ott. *Impressions of HIV/AIDS in America: A Report on Conversations with People throughout the Country*. PDF. New York.

The article proves a decreasing concern in the American society on the topic of HIV, showing that the places you could still find awareness was in African American societies and New York. It clamored for a systems to be set up that can provide care and services to people living with HIV, suggesting that this will prove to be an excellent prevention strategy as well. It hoped for more awareness, more understanding of the disease and how its transmitted, and for the American people to see the importance of public health solutions.

The article serves as a call-to-action, providing relevant and reliable information on the subject. Most importantly, the article stands out as it offers various solutions to the problems it raises.. The solutions provided therein can prove to be effective in the eradication of the rapid spread of HIV all over the world.

Stuhltrager, Kirsten Ann. "Keith Haring's AIDS Activism." Queer Culture Collection. December 13, 2015. <https://sites.psu.edu/245spring2015/2015/12/13/keith-harings-aids-activism/> (accessed November 20, 2018).

The website provides information of how his artwork should be interpreted, especially about his works in his activism of HIV/Aids crisis. The website especially provides specific details around his symbolism behind his artworks (such as the detail about the symbolism behind pink). Furthermore, the website provides a detailed explanation of his most famous

work, ignorance=fear, silence=death. The website explains how the work communicates how the society was creating fear from misinforming the public about HIV/AIDS. What's more, the website includes how the work communicated how the lack of explicit campaigns was allowing more death to happen (as the works did not advocate strongly about safe sex). The website allows a peek into Keith Haring's attitudes about the cities with his own artworks. The website allowed insight of how his artworks contained a major theme of how the discussion of AIDS should be more open.

"The Pop Shop." New York History. Accessed January 17, 2019. <http://m.nyhistory.org/exhibition/pop-shop>.

The website informs the readers about Keith Haring's Pop Shop. The website was helpful in that it sets up more information about Keith Haring's Pop Shop. Overall, it helped form my information about what the Pop shop really was about.

"The Reagan Years: 1980s: Growth of a Community: Gay Life from Local Theatre to International Sports Games." Progressive Era: 1890–1920s: Progressive Political Reform | Picture This. Accessed December 18, 2018. <http://picturethis.museumca.org/timeline/reagan-years-1980s/gay-lesbian-rights/info>.

The website provided information about the years before the HIV/AIDS epidemic happened. The website especially provided information about Harvey White- the first openly gay politician at the time. The website lists the progress the gay community made at the time (also setting up context of how the gay community settles in San Francisco). The Website provides a great context of how the gay community was before the crisis by providing the accomplishments of the community in the 70s to the 80s.

"The Red Ribbon Project." Visual AIDS. June 19, 2018. Accessed January 17, 2019. <https://visualaids.org/projects/the-red-ribbon-project>.

The website presents information about the Red Ribbon Project that happened around the 1990s. The red ribbon project was the creation of the H.I.V logo we know of today. We are enlightened of the reason why the artists chose the color red; for its connection to blood and passion. We also learn that the logo was never copyrighted in the United States because the creators wanted it to be used freely, without the intention of making profit. Lastly, we learn of the gracious acceptance the logo received from the public and the awards of recognition received for its design and iconic power. The website could be used to create a detail about the Red Ribbon Project for the prospects in the 1990s. The creation of the logo represents the beginning of an age long awareness for H.I.V. The red ribbon is still very relevant in today's society and its history is well laid out in this article. The author further excels by referencing the sources in the article making it suitable for further reading and research into H.I.V and its logo.

"Understanding Public Opinion toward HIV/AIDS". Gay Men's Health Crisis. http://www.gmhc.org/files/editor/file/perceptions_klein3.pdf (accessed January 22, 2019).

The article details the struggles of HIV infected gay men and even uninfected gay men due to the strong association of the virus with gay people at the time when the epidemic broke out and now. It points out that the virus was more positively diagnosed within the African American and Latinos communities, stating that despite making up only 13% of the total American

Population, a 2005 statistics revealed that they constituted 49% of new HIV/AIDS diagnosis. It lamented fervently about the reduction in funding while there was no cure in sight yet for the virus. It also addressed myths associated with the virus. The article is a comprehensive collation of facts that enlightens the reader about the present state of HIV/AIDS, its research, myths and funding. The author excels in presenting these facts with graphs, dates and correct recent statistics. Coupled with the reference at the end of the article, the article becomes one of the most authoritative and informative pieces to understand the subject.

Villarica, Hans. "From Haring to Condom Man: Art as Weapon in the War Against AIDS." *The Atlantic*. December 10, 2011. <https://www.theatlantic.com/entertainment/archive/2011/12/from-haring-to-condom-man-art-as-weapon-in-the-war-against-aids/249229/>. (accessed January 22, 2019).

The website provides expert opinions of the Keith Haring's artwork as a whole in context of other posters at the time. The credibility the historian possesses certainly accentuates the credibility of the article. The exploration of different posters in reaction to the HIV/AIDS crisis highlight the how art movements were crucial at the time. Keith Haring is mentioned in small parts of the article: the article mainly focuses on describing the posters at the time. The article mainly helped bolster my explanation of Keith Haring's legacy and what these HIV/AIDS poster truly meant at the time. The historian provides explanation of why these HIV/AIDS poster significant.

"What Is HAART?" National Institute on Drug Abuse. July 2012. Accessed January 17, 2019. <https://www.drugabuse.gov/publications/research-reports/hivaids/what-haart>.

The website gives information about HAART and what HAART specifically is about. The website was helpful in that it defined specially what HAART is about so that I can define it more specifically in my paper.

White, Edmund. "Four Geniuses, Gone to AIDS, as They Might Be Today." *The New York Times Style Magazine*, April 19, 2018. https://www.nytimes.com/2018/04/19/t-magazine/keith-haring-tina-chow-aids-resurrected.html?rref=collection%2Ftimestopic%2FHaring%2C%20Keith&action=click&contentCollection=timestopics®ion=stream&module=stream_unit&version=latest&contentPlacement=4&pgtype=collection

The newspaper provides a list of geniuses that passed from AIDs at the time, including Keith Haring. The article gives a basic overview and quotes from his colleagues about their experience with Keith Haring. The article gave me insight in understanding the person Keith Haring. The article provides information of Keith Haring's political side and how that side of him was interconnected with his artwork. The article sums up what makes Keith Haring so endearing to many artists and to the public; thus, the website allowed me to feel sympathetic for Keith Haring's early death.

A review of contemporary Gender Issues in the EU

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Toward the Recognition of Difference Sonia Mazey

IN THE PAST DECADE, A new phase of EU gender policy, linked to the concept of “gender mainstreaming,” has gained rapid ascendancy within the EU. The 1997 Amsterdam Treaty marked an important turning point in this development. The revised Treaty elevated the status of gender equality to a “fundamental principle” of Community activity, enshrined the principle of gender mainstreaming into the Treaty, and widened the range of positive action measures which may be adopted in order to benefit the disadvantaged sex in the field of employment. In addition, sex was incorporated into a new general non-discrimination clause (Article 13), establishing a legal basis for EU measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This constitutional embedding of gender equality into the Amsterdam Treaty undoubtedly represented an important victory for European feminists (Helfferich and Kolb 2001; Mazey 2001). The key question, however, is “whether this exercise will matter— whether it will actually influence policy outcomes in the member-states” (Pollack and Hafner-Burton 2000: 445). Five years on from the adoption of the Amsterdam Treaty, EU scholars have begun to examine the evidence.

Gender mainstreaming represents the latest stage in the incremental “broadening” of EU gender policies. In contrast to earlier “equal treatment” and “positive action” EU equality strategies, which, respectively, treated women the same as men and helped women adjust to the (gender blind) male norm, mainstreaming is based upon the recognition of gender differences between men and women. Thus, for EU policy makers, mainstreaming “involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilizing all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effect on the respective situations of men and women” (Commission of the European Communities, 2000: 5). In a broad sense, mainstreaming is a transversal and long-term political strategy for achieving gender equality by “engendering” the policy-making process. More narrowly conceived, it is a method of policy-making, which requires the adoption of particular policy-making instruments and procedures. In particular, gender mainstreaming has necessitated the introduction at the EU level of “soft” (i.e., legally non-binding) policy instruments,

such as the collection of sex disaggregated data, gender impact assessments, benchmarking, national league tables, and gender auditing of EU programmes.

It is important to stress that within the EU, mainstreaming is intended to complement, not replace, positive action measures for women and equal treatment legislation. Thus, the Community Framework Strategy on Gender Equality (2001-2005) brings together all the different EU initiatives and programmes designed to promote gender equality with an across-the-board mainstreaming approach. The positive action program associated with the Framework Strategy (to which •50 million has been allocated) focuses upon five objectives, which provide the frame of reference for policy development, and to which all EU gender equality initiatives are now linked: (continued on next page)

Information and Ideas on the European Union

(continued) equality in economic life (labour market policies); equal representation and participation in decision-making (parity democracy); equality in social life (social protection, health); equality in civil life (human rights, gender-related violence, trafficking), and changing gender roles and overcoming stereotypes (in education, culture, media). Each Commission DG is required to produce an annual work programme indicating what actions it intends to undertake towards the above objectives. Meanwhile, both the Commission and the European Women's Lobby have, wherever possible, sought to translate the gender equality principles of the Amsterdam Treaty into a legal framework. Indeed, the Commission intends to introduce a new directive later this summer, based upon Article 13, to achieve equality of women and men outside the field of employment. However, as the veteran feminist advocate and senior Commission official, Agnes Hubert acknowledged, "there is only so far we can go on this [legal] basis." Moreover, given the highly normative nature of gender equality issues, and the numerous veto points in the EU legislative process, it would in any case, be politically difficult for the Commission to "coerce" member states into further Europeanization in this policy sector. Against this backdrop, mainstreaming, characterized by soft policy instruments and "voluntary policy transfer" (Dolowitz and Marsh 2000) between member states, provides an alternative and arguably more subtle means of achieving gender equality "by stealth."

Evidence suggests that gender mainstreaming *has* provided feminist policy entrepreneurs (notably the EWL) with new opportunities to engender EU policy debates within the Commission in areas that were previously "gender blind." New areas analysed under a gender perspective include world trade and globalization, EU enlargement, fisheries, and asylum and refugee policy (Mazey, forthcoming). Gender mainstreaming policy methods have begun to penetrate the European Commission (albeit unevenly), prompting changes in policy discourse, procedures and outputs. Gender awareness training, gender impact assessments, the collection of gender desegregated data and the insertion in all calls for proposals and expressions of interest of a reference to EU gender equality policies have become increasingly routine activities within the Commission. Unsurprisingly, the impact of gender mainstreaming has been greatest in those sectors with prior experience of dealing with equal opportunities issues, notably employment, structural funds, development, education and training. Policy-makers in these sectors were already accustomed to dealing with gender issues and working with women policy stakeholders. Thus, in these services, the minimum conditions required for gender mainstreaming were (more or less) in place: understanding about the gender problematic, appropri-

ate methodological tools; and inclusion of women's interests in the policy-making process. By contrast, in other "gender blind" sectors such as internal market, competition policy, trade, energy and transport, mainstreaming has thus far made less headway (Pollack and Hafner-Burton 2000; Mazey 2001). Significantly, these are also sectors in which women have historically been less well represented in the decision-making process. Just as in the 1970s and 1980s, feminist advocates within the policy-making process have been influential in achieving this latest expansion of EU gender policies.

Gender mainstreaming has presented European feminists with both new opportunities and new strategic dilemmas. On the one hand, mainstreaming has "legitimized" the EWL within the EU policy-making process. The Lobby has been increasingly active in new policy areas such as globalization and trade, EU enlargement and EU Treaty and institutional reform. Given the continuing under-representation of women and lack of gender expertise in the EU institutions, the EWL has become an influential source of women's representation within the EU decision-making process. The problem is that the EWL (with just eleven full-time staff and meagre funds) currently lacks sufficient resources to deliver this ambitious agenda.

There is also scepticism within the Lobby regarding the likely benefits for women of mainstreaming. Though European feminists acknowledge the transformative potential of such a strategy, many doubt whether there exists either the political commitment or institutional capacity required to implement this strategy within a multi-level polity such as the EU. Given that national governments remain primarily responsible for interpreting and implementing EU policies, there are grounds for such fears. The introduction of so-called "family-friendly" employment, for instance, has in some member states been pursued primarily from the employers' side, resulting in the introduction of increasingly unpredictable, rather than shorter, working hours. More recently, it is extremely revealing that gender issues have not yet featured in the ongoing debates about how European governance structures might be democratised— an omission which suggests that gender mainstreaming has yet to become culturally and institutionally embedded in the EU broadly defined. In view of these uncertainties, the EWL remains committed to grounding gender equality in law.

Lastly, many women fear that the privileged status of women's rights within the context of EU social policies may also be jeopardised by the increased emphasis upon mainstreaming. The Amsterdam Treaty established a broad human rights framework which commits the EU to combating various forms of discrimination. This development has highlighted the need for European women to think more systematically about the relationship between **gender** mainstreaming and the more inclusive strategy of **equality** mainstreaming. Thus far, the EWL has been reluctant to embrace a broader definition of "equal opportunities" beyond gender issues and has remained passive towards elderly and disability mainstreaming initiatives. The reluctance of the Lobby to embrace equality mainstreaming is perhaps understandable given the present fragility of EU gender equality policies. Whilst equality mainstreaming may ultimately be a more effective means of incorporating "difference" into EU policies, there is a fear that the greater effort on race, disability, religion, etc. might come at the expense of gender.

Gender Mainstreaming and the EU Constitution Jo Shaw

GENDER MAINSTREAMING HAS BECOME the buzz word of EU gender policy since the mid 1990s. Its proponents argue it has greater capacity to deliver socio-economic equity for all members of society, by requiring the thorough scrutiny of every aspect of policy-making, from inception to implementation. Its detractors argue that it is rarely more than formulaic window dressing, and that it could undermine the existing legally binding framework of sex discrimination law. For the purposes of this essay, I shall go with the proponents rather than the detractors. Taking an initially optimistic point of view, I examine the extent to which the gender-receptiveness issues raised by mainstreaming both as a policy style and even—potentially—a new approach to politics are embedded in EU constitutional law and discourse.

The degree of inclusiveness of a polity at the level of constitutionalism matters. It matters whether a non-state polity such as the EU includes within its constitutional framework provisions on gender or race equality. The content, purpose and function of these provisions contribute to what Neil Walker calls the substantive and polity-defining functions of constitutionalism (Walker 2001). It is also important to know how and why these provisions came to be included in a constitutional text, as well as how they have been interpreted by influential actors such as courts, legislatures and executives. Legal feminist scholarship has been quick to recognize the double-edged nature of taking advantage of the privileged sites of struggle provided by constitutional or similar norms. On the one hand, the inclusion of a norm of equality in any constitutional text rarely “just happens” as a top-down phenomenon. On the contrary, even if constitutional norms are not always directly struggled over—especially at the supranational level where there is relatively little direct citizen access to the levers of power—new constitutional norms are still likely at the very least to be the filtered reflection of *other* struggles, ones which are perhaps more localized or less focused on reformism and legal change. To that extent, to harness the normative power of such provisions is to recognize and value the transformative potential of struggle and protest about a repressive *status quo* such as a restrictive gender regime. Yet still, the very fact of engaging with the “state” or “state power,” even in the diffused form of the EU, brings with it the risk of assimilation into that same liberal legal order and of diluting the limited critical resources of a radical feminist politics.

The constitutional dimension of the EU’s gender regime hangs by a slender historical thread: Article 119 EEC. This equal pay provision was included in the Treaty of Rome largely to prevent the risk of distortions of competition in the labour market arising because France had already enacted equal pay guarantees (Barnard 1996). Wobbe (2001) contextualizes this story by reference to the rise of a rights ideology and a rights narrative after the Second World War, not to mention the role taken by the International Labour Organization in the negotiations on the EEC Treaty (Hoskyns, 1996: 53). Until 1999, and the entry into force of the Treaty of Amsterdam, legal change in the gender rights field was largely driven by judicial activism focused on the Treaty and a limited body of secondary legislation. It also depended upon the agency of a number of key actors. The Commission pressed for a new era of European social policy from the early 1970s and initiated sex equality legislation in the form of equal pay and equal treatment directives. The Court of Justice famously established the direct effect of Article 119 in the Defrenne (No. case, and strategic litigants and their legal advisors and trades unions have helped to ensure a steady flow of cases from national courts to the Court.

As Sonia Mazey has shown above, the 1997 Treaty of Amsterdam has added the imprimatur of member state approval to these developments and embedded gender equality norms more deeply into the fabric of the EU's constitution, including a revised Article 3(2) EC which enshrines the principle of gender mainstreaming into the Treaty, an amended Article 141 (ex 119), and the new Article 13 EC allowing the adoption of measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Since Amsterdam the EU fundamental rights framework has been transformed. A Convention of national representatives and representatives of the EU institutions elaborated a Fundamental Rights Charter for the EU, adopted at Nice in December 2000. Chapter III of the Charter is simply headed "Equality" and it contains a veritable "potpourri" of rights, some of a traditional justiciable and constitutional type, some of a more aspirational nature. Not all are directly concerned with gender equality, but they do raise the question of how "differences" can be melded together in a fundamental rights regime. Spread across seven articles, we find equality before the law, the prohibition of discrimination, respect for cultural, religious and linguistic diversity, a specific guarantee of equality between men and women in all spheres, and a range of children's rights, rights of the elderly, and rights of disabled persons. The Charter is not formally binding, but it was quickly employed by Advocates General in the Court of Justice as an inspirational source of rights argument, although the Court itself has been more circumspect. Should the Charter find a place as a formal element of a "European Constitution" after the current Convention and the 2004 IGC, it will have significant effects on the nature of the Euro-polity—effects which are hard to predict with precision given the open-textured character of its provisions.

The evidence points towards an equality principle which is deeply embedded in the EU's constitutional fabric, at least in formal terms. It also highlights the different ways the principle can operate within the constitutional order. There are straightforward guarantees of non-discrimination, legal bases for implementation of the equality principle by the institutions, and more complex and ambitious techniques to promote substantive socio-economic equality such as gender mainstreaming and positive action. This is fertile territory to argue that gender mainstreaming can be more than just a technique for policy-makers and can be instead the basis for a transformation of politics via the overall polity-generative capacity of constitutionalism.

The constitutional form is unfortunately rather ahead of the constitutional practice. There is so far little evidence that mainstreaming is seeping into the case law of the Court of Justice, despite the Court's generally activist history in the promotion of gender equality. The Court's case law continues to distinguish sharply between labour market issues, where its writ runs, and those of the gendered division of labour in the household, where it does not. "Neutral" legal categories such as rights and remedies are not often open to specifically gendered reasoning. Even so, it is interesting to note the Court's increased willingness in recent judgments to engage more fully with the wider socio-economic circumstances in which gender relations in the family develop. In cases such as *Lommers* (Case C-476/99, March 19 2002), the Court has demonstrated a broader view of the complexities of strategizing for equality than some of the earlier cases, not so much because they represent a radical departure from previous maternalist analyses exemplified by the *Hoffmann* case (Case 184/83 [1984] ECR 3047) and critiqued by McGlynn (2000), but because of the greater depth of legal reasoning applied.

Feminist politics has also so far had little impact upon the mega-constitutional events such as the Convention on the Future of the Union or initiatives such as the Governance White Paper, which involve a critical reflection upon the way the EU does its business. One can point to the paucity of representation amongst the Convention's 105 members and 13 observers. In total, there are ten women from the EU member states, plus six from the accession countries. Two of the thirteen observers are women. Only two of the twelve-member Praesidium, which effectively controls much of the agenda of the Convention, are women, and none of the three-member Presidency. Yet in other respects the principles of parity democracy have seeped into the EU's portfolio of gender equality policies. The Commission adopted a decision on the gender balance of Committees and Expert Groups, with a commitment to forty percent women members, and the Council adopted a recommendation on the balanced participation of women and men in the decision-making process. The latter calls for integrated strategies on the part of the member states to address participation imbalances. The *ad hoc* manner in which members are nominated for a body such as the Convention is precisely the opposite of such an integrated strategy, and appears to be a recipe for ensuring low levels of participation, with everyone relying on everyone else—especially the Scandi-navians—to ensure that women are nominated.

The proposition that policy-making operates in a gendered environment and with effects which are not wholly gender-neutral receives no attention whatsoever in the Governance White Paper of July 2001. Yet gender mainstreaming: “does not mean simply making Community programmes or resources more accessible to women, but rather the simultaneous mobilization of legal instruments, financial resources and the Community's analytical and organizational capacities in order to introduce in all areas the desire to build balanced relationships between women and men.”

This statement from the Commission (1996) clearly resonates with the grand objectives of the White Paper to “open up policy-making,” to “connect the EU more closely to its citizens and lead to more effective policies.” The White Paper aims to harness five principles of good governance—openness, participation, accountability, effectiveness and coherence—in order to overcome the perceived legitimacy gap infecting the EU and its institutions. Although work on “public spheres” has begun to establish the gendered nature of such legitimacy gaps, gender is ignored in the White Paper. The focus on “better regulation through a greater diversity of policy tools and their combined use,” although fleshed out in places with references to the open method of co-ordination, the role of the social partners and techniques of “co-regulation,” does not extend to identifying the possible contribution to “better regulation” made by gender mainstreaming.

The White Paper is quick to deal with “powers,” but slow to face head on the question of “power.” Gender is primordially a power question (Shaw, 2000). To follow the gender mainstreaming project to its logical conclusion is to raise some fundamental questions about who decides who gets what, where and how. Gender mainstreaming can be an empowerment project in much the same way that the reconsideration of “governance” could potentially be empowering. Cram (2001) suggests that national conditions, including resistance to reform, will play a huge role in determining the impact of governance reforms at the domestic level. Similarly, Beveridge *et al.* (2000) chart a huge diversity of national conditions affecting gender mainstreaming and gender equality regimes. Issues of “fit” at the national level can dominate in both cases. Moreover, both governance reform and gender mainstreaming are political not technocratic projects. It is regrettable and indeed remarkable that the

insights of one innovative governance project in relation to gender mainstreaming have not been brought to bear in the formulation of another broader project of reform.

The marginalization of feminist politics in the Convention and the White Paper, combined with the slow pace of adaptation on the part of the Court of Justice, makes it clear that the embedding of mainstreaming in the constitutional politics of the EU has some way yet to go.

Our European Enigma: Assessing Progress R. Amy Elman

ASSESSMENTS OF EUROPE'S "PROGRESS" toward (sexual) equality often reveal more about our conceptions of what equality is than whether and to what extent Europe has been able (or willing) to achieve it. Thus, as some embrace Article 119 and subsequent legislation as significant remedy for gender inequality, others aver that European law legitimates capital accumulation while appearing opposed to the gendered inequities associated with it. Similarly, while reforms for "working mothers" are arguably essential to gender equality, the very term also implies that women's primary status (and responsibility) is motherhood and that working (for wages) is secondary.

Understanding the historical trends, achievements and shortcomings of efforts to ameliorate sexism is complicated. The dynamic and pervasive quality of sexism, the unusual character of Europe's polity and the illusive goals of feminist movements (e.g., to "take back the night," "end male violence" and promote "equality") are only some of the conditions that make "progress" difficult to discern. This essay focuses on these and other factors that haunt our efforts to make sense of sexual equality within the context of European integration.

While women's movements generated the public outrage that likely prompted member-state and Union action against sexual inequality, the general reluctance to **define** women's movements clearly hampers our efforts to measure their effect. Moreover, to what extent have **other social conditions and/or actors** (for whatever the reasons) inspired efforts to counter sexism? In sum, what counts as **evidence** in determining Europe's progress toward ending sex discrimination?

"Feminism" is a term so fraught with dissension over its meaning and application that the relatively more inclusive term "women's movement(s)" has either substituted for or been used interchangeably with it. This linguistic shift diminished some problems and others emerged. First, while feminist movements are women's movements, not all women's movements are feminist and some actually insist on their opposition to or distance from feminism. The erroneous assumption that **women in movements** are feminists suggests that being female is synonymous with being a feminist. Expecting one's experience of oppression to produce an emancipatory politics is essentialist and inevitably disappoints those seeking liberation because oppression produces damaged people at least as often as it produces effectual activists. The tenor of definitional inclusion compromises strategic effectiveness for movement activists while jeopardizing epistemological and methodological precision for scholars of movements.

In the absence of conceptual clarity concerning women's movements and their influence, direct evidence of gender inequality and/or remedies ostensibly adopted to address it may hold greater appeal. In compensating for the dearth of historical detail, scholars use macro-data that unambigu-

ously reveals gender inequality in political representation (i.e., fewer women in positions of power), the wage labor market (i.e., lower wages and benefits), and “the family” (i.e., “the double burden”). These data and related remedies for “working women” in general and “working mothers” in particular are so prominent that their utility is rarely interrogated.

If the emphasis extended to “work” and “family” mirrored empirical reality, this stress might be less objectionable. Yet, however important these issues are to many women, not least to those writing on this subject, they were not (and have not been) as integral to feminist activists as the literature on “women’s movements” would suggest. For many, the conundrum of combining (paid) work with family (read “care work” for male partners and children) was (and is) less important than efforts to transcend the confines of this conventional lifestyle (and burdensome expectation). Indeed, more women than ever throughout Europe are opting out of or postponing marriage and motherhood.

Given the current climate, why are working mothers the “hegemonic subject” of scholars? According to Lisa D. Brush (forthcoming), politics play a decisive role in the persistent preoccupation of scholars in the selection of their case studies and the relatively circumscribed approach to research that they take. She notes that the reliance on standard measures produces scholarship that addresses women in *comparison* to men but does not assess women in their social *relation* to them. In consequence, “the cultural, sexual, physical, and emotional enforcement of male dominance goes unmeasured, unremarked, and unchallenged” (Brush, forthcoming). If analogous claims can be made concerning the consequences of privileging working mothers as the key beneficiaries of Europe’s equality policies, are there alternative policies and critical analyses that may better facilitate sexual equality?

Years ago I placed my faith in the utility of case studies and policies adopted to mitigate male violence because, I argued, male dominance is clearly expressed in the violence and sexual abuse that men and boys perpetrate against women and girls. I thus asserted that efforts to end male violence and penalize the perpetrators reveal a greater responsiveness to women on the part of capitalist states than the more conventional policies that are of interest to most researchers on women, the (“welfare”) state and European integration. After the Commission’s adoption of a community-wide information campaign on violence against women (i.e., the Daphne Program) and the explosion of interest in and rhetorical statements on this subject, I wonder.

Previously determined to promote social change by ending male violence, feminist activists began resembling poster children for the same states and EU institutions they once challenged, if not loathed. If not for an appreciation of the unintended consequences of strategic actions, one would be at a loss to explain this transformation. After states acknowledged their apathy and attributed it to the expense of policies that could prove beneficial to women, feminists began reversing these arguments to show the cost of oppression both to states and their reputations. After insisting that the effects of battering spilled over into the workplace at considerable loss to the economy (through lowered productivity and increased absenteeism due to injuries), activist claims resonated not just with member-states but with the EU.

The increased interest among Europe’s policy-makers in mitigating male violence, moreover, corresponded to escalating public concern throughout the member states. In 1997, the European Commission released a report acknowledging that male violence is the most endemic form of violence

within all member states. The following year, the European Parliament designated 1999 as the “European Year Against Violence Against Women.” The Commission concomitantly proposed funding for investigations into the problem as well as the community-wide information campaign, Daphne.

Though too soon to tell, it is likely that the above-noted Community efforts will provide remedy to some and prove illusory to many. That is because when the framing, chain of political command, and market structures relating to women’s oppression remain intact, illusion masks the absence of redress. National reputation is an essential part of any state’s strategic

equity, particularly now that “globalization and the media revolution have made each state more aware of itself, its image, its reputation, and its attitude—in short, its brand” (Van Ham 2001: 3). Market-oriented Europe is no less brand-oriented and, as Peter Van Ham wisely warns, branding holds a “preference for style over substance” (ibid.). State and EU action is taken to increase legitimacy much as corporate sponsorship is an investment in future profit. Such acts are not movement actions determined to liberate women—they are marketing tools. The extent to which the public perceives that sexual equality has progressed and credits Europe with this success, the acts are wise investments—whether or not the product is compassion without the effort taken so that it is not needed.

Problems of measurement render an authoritative assessment of Europe’s progress impossible to provide. However, questioning what progress means encourages us to better understand our capacity to initiate change in ways that might convince us that progress is possible.

Managing Diversity: Non-Discrimination and the European Union

Mark Bell

EU LAW ON DISCRIMINATION has been subject to a dynamic series of changes in recent years. These stem from the decision of the member states in 1997 to add a new legal competence for combating discrimination to the EC Treaty, Article 13. This provision extended the material scope for anti-discrimination law beyond the labour market, as well as providing the Community with powers to combat discrimination on grounds of sex, racial or ethnic origin, religion or belief, age, disability and sexual orientation. In this essay, three trends are examined: first, the adoption of new instruments for combating discrimination; second, the application of non-discrimination norms to a wider range of grounds; and third, the extension of the material scope of discrimination law. Whilst progress has been made in all these areas, it is argued that there is little clarity as to the underlying vision or ultimate legal framework.

Adopting New Strategies and Instruments

Three Directives on combating discrimination have been adopted since the introduction of Article 13. First, in June 2000, the Council adopted the “Racial Equality Directive” (2000/43/ EC, OJ L180/22) forbidding discrimination on grounds of racial or ethnic origin in a range of areas, such as employment, education and health care. Second, in November 2000, the Council adopted the “Framework

Directive” (2000/78/EC, OJ L303/16) prohibiting discrimination on grounds of religion or belief, disability, age and sexual orientation, but only in the (broadly defined) area of employment. Finally, on 17 May 2002, the Parliament and Council agreed a series of amendments to the 1976 Equal Treatment Directive, which forbids gender discrimination in employment. Significantly, each of these Directives pursues a number of new strategies.

First, there is a wider definition of unlawful discrimination. Indirect discrimination is redefined in order to move away from the existing dependence on statistical evidence (e.g. Case C-167/ 97 Seymour-Smith [1999] ECR I-623). Instead, the new standard focuses on situations where “an apparently neutral provision, criterion or practice would put persons [with particular characteristics, e.g. a disability] at a **particular disadvantage**.” Harassment is also explicitly prohibited as well as any instructions to discriminate by third parties. Second, there is a new stress on enforcement and remedies. Victimization of complainants is forbidden and the sanctions adopted by national law are required to be “effective, proportionate and dissuasive.” More importantly, the need to support individual litigants is recognised: organizations with a “legitimate interest” in enforcing equal treatment can bring cases on behalf of individuals, and member states must establish “equal treatment bodies” with a duty to provide independent assistance to victims of discrimination. Strangely though, such bodies need only cover discrimination based on sex and racial or ethnic origin.

Extending the Umbrella of Protection

As noted above, Article 13 gave the Community a clear mandate to apply non-discrimination principles beyond the existing “suspect” grounds of sex and nationality. Yet, the European Union has since added a further and broader layer of protection in the Charter of Fundamental Rights (2000, OJ C364/01). The Charter provides a statement of the fundamental rights recognised by the Union. However, disagreement amongst the member states at the time of its conclusion meant that it has an ambivalent legal status. It is not part of the founding Treaties and hence not legally binding. Nonetheless, reference to its norms by the Court of First Instance and Advocates-General at the Court of Justice suggest that the Charter will certainly have legal effects. Article 21 provides a non-exhaustive list of grounds on which discrimination is prohibited. In addition to the grounds already recognized in the EC Treaty, reference is made to colour, social origin, genetic features, language, political or any other opinion, membership of a national minority, property and birth.

An unusual hierarchy emerges as a result. First, there is discrimination on grounds of EU nationality, which, by virtue of the directly effective rights conferred in Article 12 EC, is prohibited throughout Community law and seemingly in most areas of national law (e.g. Case C-184/99 Grzelczyk [2001] ECR I-6193). Second, the grounds found in Article 13 can, through the passage of EC legislation, become forbidden areas of discrimination in national law. Finally, the remaining grounds only appearing in the Charter are, at least, likely to be regarded by the Court of Justice as suspect classifications as regards differential treatment within EU law, but in respect of which the Union enjoys no powers to adopt implementing legislation.

Moving Beyond the Labour Market

The other new trend is the application of non-discrimination norms to areas outside employment. Whilst this was already true for the prohibition of nationality discrimination, Community law on sex discrimination applied primarily in situations connected to participation in employment. In contrast, the Racial Equality Directive additionally covers the areas of “social protection, including social security and healthcare; social advantages; education; and access to and supply of goods and services which are available to the public, including housing” (Article 3(1)). However, these are subject to the important, if vague, caveat that it is only in so far as these issues fall “within the limits of the powers conferred upon the Community.” Given the blurred boundaries of EC legal competence in areas such as healthcare or education, the scope of the non-discrimination requirement remains ambiguous.

Nonetheless, the Council has already committed itself to the adoption of further legislation on gender equality in areas outside employment (European Social Agenda, [2001] OJ C157/4) and there are active campaigns for similar legislation on grounds of disability and sexual orientation. The experience of applying the 1976 Equal Treatment Directive means that the Court of Justice already possesses a rich body of case-law from which to draw principles when confronted with questions surrounding the employment provisions of the new anti-discrimination Directives. However, the promotion of equality in education, for example, will present the Court with new challenges, such as the legal scope for positive action in this area.

A Coherent Vision of Equality and Diversity?

The transformation of EU anti-discrimination law has provided a welcome revitalization, rather than continued reliance on the stale legal framework provided in the 1976 Equal Treatment Directive. Moreover, the Directives are producing a trickle-down effect by stimulating debate across the member states, as well as the EU applicant states, on how best to (re)construct anti-discrimination law. For the most part, the new Directives should enhance protection against discrimination at the national level; however, there is also the potential for EU norms to disrupt established legal traditions and frameworks. In particular, the Article 13 initiatives have not reduced the pre-existing equality hierarchy within EU law. On the contrary, new hierarchies have emerged and there is an evident lack of consistency between the various legislative initiatives. This is problematic for national legal systems based around common standards for all forms of discrimination; indeed, the Directives may provide the opportunity for the emergence or exaggeration of national equality hierarchies. The challenge for the Union is to ensure that the end product is not a discrimination law of “bits and pieces,” but a coherent and consistent framework for promoting equality.

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An Examination of and Proposal for Personal Rights Management (PRM)

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Abstract

With ubiquitous use of digital camera devices, especially in mobile phones, privacy is no longer threatened by governments and companies only. The new technology creates a new threat by ordinary people, who now have the means to take and distribute pictures of one's face at no risk and little cost in any situation in public and private spaces. Fast distribution via web based photo albums, on-line communities and web pages expose an individual's private life to the public in unprecedented ways. Social and legal measures are increasingly taken to deal with this problem. In practice however, they lack efficiency, as they are hard to enforce in practice. In this paper, we discuss a supportive infrastructure aiming for the distribution channel; as soon as the picture is publicly available, the exposed individual has a chance to find it and take proper action.

Introduction

Until the 1990s, public distribution of images could only happen in the press, either in print or in electronic broadcast media. To challenge the unauthorized distribution of an individual's image, a media company could be identified and contacted. Furthermore, the media company usually would know who the photographer was.

With the advent of the Internet as a public communication platform, fast and global distribution of images in public with Web pages became common. Scanned photos then were available from a unknown number of private web pages. The availability of digital cameras reduced the cost and shortened the time it took to put images online. Still, pointing a digital camera at a person will be noticed in many situations.

The early 21 century introduced mobile phones including digital cameras. The camera lens can hardly be recognized, and now everyone who holds a mo-bile phone in an individual's surroundings could be taking a photo the same time. Now the individual doesn't know whether there are images on the Web, the individual won't see a camera while being photographed or filmed either.

This paper deals with the challenge of protecting one's own image and private issues attached to it. With respect to new mobile technologies and distribu-tion channels, we sketch a privacy threat posed by millions of privately owned cameras in mobile phones.

The legal situation is reviewed, and traditional law as well as recent efforts to tackle the issue with new laws or technological solutions is reviewed.

Next is the definition of the threat, where the attacker and attack scenarios are defined. We introduce a protocol based on watermarking and broadcast chan-nels to enable individuals to take notice when photos are produced around them and search for them on the Web.

Finally, we discuss our solution for PRM and draw conclusions towards the feasibility of the technol-ogy on mobile phones with particular respect to al-ready existing digital rights management (DRM) technologies.

Table 1 forecasts sales of camera phones to be over 70 million pieces in 2006.

	2002	2003	2004	2005	2006
Embedded camera phones	1.7%	9%	21%	45%	66%
Camera accessories	0.8%	5.0%	3.0%	2.0%	1.5%
Total mobile camera-capable terminal sales to end users (Thousand number of units)	2,626	14,770	24,657	48,159	70,036

**Camera-capable mobile terminal shipments to end users by camera type-Western Europe
2002-2006 (Percentage of total mobile terminal market) Source: Gartner Dataquest (April
2003)**

With massive numbers of camera phones out in the public, photos can be taken at any place. News stories about offenders being caught while shooting photos under women's dresses in public are available from the United States, Japan, Great Britain, Malaysia or even Saudi Arabia. Web sites like Voyeur-web.com have been around longer than camera phones exist to even commer-cially distrib-ute the content. While this intrusive and offensive use of cameras is regarded illegal in many places in the world, other uses seem to create ben-efits for society – other news stories tell of offenders being identified thanks to camera phone photos taken by by-standers of a crime. Also, the story of Dutch soccer champion Kluivert tells of new uses of public camera infrastructures.

He broke his team's curfew the night before a game, and was photographed by numerous visitors of a night club – which in the end led to Kluivert being expelled from the team (see Barker, 2003)

Considering the favourable uses of camera phones in public, a solution that does detect, but not prevent taking of photos in public places may seem appro-priate.

Technologies for mobile media production and distribution

Today, GPRS and other data transmission technologies for mobile phones allow fast distribution of media content. Build-in software for the creation of web based photo albums (Nokia, Fuji, Kodak online photo albums) and MMS phone-to-phone distribution (Nokia Superdistribution, OMA DRM) offers image distribution opportunities even to camera users who are not familiar with internet data transfer protocols and Web page editing.

Examples of legal context

Several countries enacted laws against unauthorized taking of photos with individuals. More countries are debating legislation that is intended to ban camera phones or their use. Some examples are given below.

In **Germany**, a copyright law (“Kunsturhebergesetz”) protects one’s own image against unauthorized publication since Bismarck’s times. Photos can legally be taken without authorization, but their distribution without authorization – even to small audiences – is illegal. Exceptions are photos taken in public places at events where (press) photography usually happens. Also, individuals of “public interest” (e.g. politicians, actors, celebrities) can be photographed and published with limited restriction (see Dix, 2000).

In **Australia**, under the Commonwealth Crimes Act 1914 - Part VII B, Section 85ZE it is an offence for “a person to knowingly or recklessly use a telecommunications service supplied by a carrier in such a way as would be regarded by reasonable persons being, in all the circumstances, offensive”.

In addition, following the widespread introduction of the internet, state laws were changed to address this issue. For example the Crimes Act in Victoria was amended in 1995 to include the offence of ‘Stalking’. This includes telephoning and sending electronic messages with the intention of causing physical or mental harm.

In **Hungary**, “Taking and transmitting recordings without legal or personal accord is unlawful data handling and can lead to civil, or in some cases penal, responsibility”, according to the Hungarian data protection ombudsman Attila Peterfalvi in an 2003 Reuters’ article.

Within the **United States**, many state laws, county and city legislation has been enacted to ban the use of camera phones in public places or in certain situations. The laws ban the use of a camera in a particular location.

In **Japan**, offenders – if caught – face fines of 6 months in prison or ¥500.000.

While many countries do have legislation about camera based privacy invasions and the distribution of photos without consent of the photographed individuals, the question of the enforcement remains. The next section reviews current legal and technological efforts.

Current Solutions

The problem of secret photography has been recognized by most of the involved parties, including the manufacturers, politics and private citizens. Some measures have been taken, though with limited effect.

Tougher laws

As mentioned above, many countries have fortified the right on personal pictures, and increased the punishment for the publication of such.

However, this right may be hard to enforce; the photographed individual may never find out about the publication, or at a time where the picture is too widespread to do anything about it. Also, an offender has to be caught on the scene, before the phone digitally transmits the photo away. Even with laws enacted, an individual's only choice would be to arrest the offender instead of waiting for the police to show up. This is not a setting that helps all members of a society with their rights.

Ban phones

One approach is that places especially subjected to illegal photographing - such as public swimming pools, gyms and Saunas - ban the use of cameraphones altogether. Also, many companies have banned cameraphones to counter industrial Espionage, among them DaimlerChrysler. This has led to the situation that even some cellphone producers banned their own devices from their premises, e.g. Samsung and Motorola.

This approach may be a major inhabitation for normal phone users (though banning cellphones altogether in some places is not a bad idea in the first place), and is only suitable for controlled areas with a high risk of secret photographing. Also, the ban has to be enforced somehow, which may not be easy concerning the small size of camera phones.

“Shutter”- noise

Currently, the most common solution to the problem of secret photographing is to add a sufficient loud shutter-noise – whenever a picture is taken, this can be noticed by the environment. This approach has several disadvantages:

It is often poorly implemented. For example, if a Sony Ericsson T610 is switched into silent mode, this also turns off the shutter noise.

Given the noise pollution created by cellphones anyhow, this can add to the annoyance of the technology - especially if MMS traffic (and thus the use of phone-cameras) increases the way the industry hopes

It violates the privacy of the photographer, as everybody, including people not on the picture altogether, immediately learn about him being present with a camera.

It is mostly ineffective. Not only can the noise get overheard (due to general noise or the environment, e.g. in a Discotheque), it usually does not help the victim. She can shout at the photographer, but in the average situation she will hardly be able to do anything effective.

Given the difficulty to prevent pictures from being taken without dramatically infringing the rights of harmless photographers, our approach targets the distribution channel rather than the creation of the picture. Thus, pictures can be taken without restrictions. However, the subject of the pictures is made aware that some picture has been taken. Furthermore, should the picture appear on the Internet, she has a realistic chance to locate it at an early point in time, when it is still possible to inhibit the distribution by legal means.

As an added value, outside of protecting the victims privacy, this technology can also be used to distribute pictures to interested parties.

Enforce Safe Zones by broadcast

Several businesses develop so-called safe harbor technology which is intended to create zones where a broadcast unit tells camera phones that photographing is forbidden there. Two british companies called Sensaura and Iceberg Systems advertise such a technology: ***Safe Haven allows the camera functionality of the phone or other electronic devices to be disabled without affecting any other usage of the device. Safe Haven works by transmitting a signal in a localised environment such as a school, swimming pool, office facility or factory, which disables the camera functionality of devices in the nearby environment. Safe Haven enables digital cameras within a variety of electronic devices to be disabled including camera phones, camera PDA's, digital cameras and multi-purpose MP3 players. (www.sensaura.com, Press Release of Sep 11, 2003)***

While this approach empowers property owners to define zones where photo taking is not permitted, it also restricts a user's freedom of taking pictures with consent in the area.

Other problems are the camera phones already sold to the market and the need to implement the receiver technology into all manufacturer's handsets for an effect. Furthermore, to protect individual rights, one needs a portable unit.

This only could guarantee personal rights independent from someone's property protection policy.

The Privacy Tradeoff

In protecting the personal rights of the person involved in our setting, we have to make a tradeoff between two parties, the person being photographed (the individual) and the photographer. We will now state the minimum rights of each party that should be preserved.

Ideally, the individual should have the right to give consent to every picture she plays a major role in; this is the actual right granted by law in the European Union. This right is hard to enforce technologically, however, as it includes judgment on when a picture is a picture of a person, or just a picture of a marketplace that happens to have people on it.

As a minimum, the individual has the right to know she has been photographed, and to have a chance to get an early warning if the picture is being published, allowing her to take appropriate steps in needed.

As long as he does not infringe any personal rights, the photographer should have the right to take pictures without any major obstacles. In this, the protocol should preferably be passive, and not prevent him from taking pictures unless under well defined and measurable circumstances. Furthermore, the photographer has the right to stay anonymous (as long as he does not infringe anybody else's rights).

Finally, the photographer has the right to modify his device; for example, the camera in a PDA should not stop working if the operating system is modified or replaced.

An Infrastructure for Personal Rights Management Attack Model

We assume that the attacker does not want to spend much resources into breaking the device. Even with a perfect scheme, such an attacker could easily circumvent our entire system by using a traditional camera with a strong zoom optics, or a traditional mini-camera. Thus, protecting against such an adversary is pointless – the problem is not in the professional voyeurs, but in the wide deployment of photographic devices and the ease of secret photographing.

We do assume, however, that the attacker can do simple modifications to the device and the picture, and that the corresponding instructions will eventually be published on the Internet. At the moment, for example, there exist Internet sources that offer modified operating systems for cellphones to turn off the noise generated while taking a picture.

Our protocol leaves a number of attack points where a sufficiently motivated attacker can escape the scheme. This is unavoidable if we want to protect the rights of harmless photographers as well – unless we treat every owner of a cellphone like a criminal, there will always be ways to escape the scheme.

Outside of making this somewhat harder and therefore less attractive to the masses, our protocol also has its merits if combined with legal measures. Though circumventing the protocol may be possible, it does demonstrate that the photographer has “criminal intend”. Thus, it is easier to distin-

guish a normally harmless person that just couldn't resist taking a picture in a particular situation from a semiprofessional voyeur with manipulated equipment.

Basic Protocol

Players

There are three major players in our setting.

The **Photographer (Bob)** is the person taking the pictures. Bob uses a **phonecam**, i.e., a cellular phone with a built-in camera. Bob has the rights to not be inhibited while taking pictures and has his identity preserved as long as he does not infringe anybody's rights. Also, Bob has the right to perform "standard" changes to his cell phone, such as updating the operating system.

The **Model (Alice)** is the person that is photographed by the photographer. Her interest is that she has control over pictures taken of her, i.e., if she is the center of the picture, this picture should (ideally) not be taken without her consent. In our protocol, we grant her a lesser right: If a picture taken of her is published, she gets a fair chance to find out early.

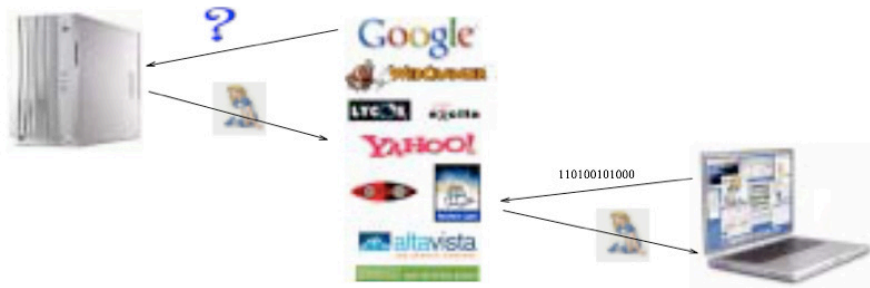
The individual uses a **receiver**, which registers the identities of pictures taken in her vicinity. This could be her own cell phone, but also specialized hardware. The receiver can also be in the infrastructure, i.e., it is provided by external parties, e.g., the owner of a Discotheque or even the GSM operators themselves.

Finally, the **search engine** searches the Internet for picture identities and makes them publicly available. This service is not unlike normal Internet Search engines, but with slightly modified rules.



In the first step, Bob chooses to take a picture of unaware Alice. His camera generates a random picture ID, broadcasts it and embeds it as a watermark into the picture.

Alice's receiver picks up the picture ID and stores it for later use.



When Bob puts the picture on the Internet, specialised search engines find it and index it by the watermarked picture ID. Alice sends requests to the search engine with all picture identities that her receiver picked up, and thus locates the picture taken by Bob.

Hardware Implementation

For our protocol to work, we need to establish a connection between the phonecam and the receiver. We assume that no cell phone manufacturer will be willing to add completely new communication technology into the devices to enable a protocol such as the one presented above. Thus, we restrict ourselves to current hardware. This leaves three general ways to communicate between devices:

Infrared

The big advantage of infrared communication in our setting is that it is directed, i.e., the signal can be sent in a way that only devices in the view of the camera receive it. This comes with at some price. The bandwidth of infrared communication is fairly low, and the distance over which a signal can be transported may be too small. Also, it causes problems on the receiving side: if the receiver is not directed to the camera, it may not get any signal at all.

In the way infrared ports are implemented today, they are fairly easy to block; it is sufficient to glue an object onto the light. Also, jamming the signal with a strong infrared light is fairly easy, which would block all communication.

The first issue can easily be solved by building the receiver into the camera lens. Thus, blocking the communication would disable the ability to take pictures. The second approach is harder to deal with. It may be possible to design a camera that can not take pictures if exposed to a strong infrared signal, but that may not solve the problem (as the jamming signal may be directed) and allow for a denial of service attack, i.e., preventing all cellphone cameras to take pictures at all (that possibility may be wanted though).

Bluetooth

This is essentially the complement of IR: The disadvantage is that a Bluetooth signal is undirected, thus also devices not in the visual scope of the camera get the signal. However, it is very difficult to jam, and the bandwidth is sufficient even for interactive protocols.

An additional disadvantage is that currently, enabling Bluetooth on a phone may pose a security risk. Recent studies show that many Bluetooth phones are open to attacks that may reveal the entire phone memory, i.e., the address book, the calendar etc. This may even be possible if the phone is not discoverable – the mere activation of Bluetooth is sufficient (see for example <http://www.nwfusion.com/news/2004/0211cracksappear.html>)

Thus, unless the security of this technique can be improved, to protect the privacy of her pictures the individual may have to risk a privacy-invasion on her phonebook.

GSM-Network

Finally, by their very nature cellphones are capable of sending and receiving signals on the GSM frequencies. Thus, the idea is tempting to use that signal to transmit the necessary information. However, in the current specification, the GSM protocol is ill-suited for device-to device communication. Adding this capacity would require major changes in the GSM standard, which is unlikely to happen for the purpose of protecting people from illegal pictures.

It would be possible to use the basestation as an intermediate, i.e., the photographer's device sends a signal to the basestation, which in turn sends a cell-broadcast to all devices in the area.

This creates new problems. For one, one cell may be too big, noticing many devices that don't have anything to do with the picture altogether. Also, phones at the same location may be locked into another cell or use a different provider.

All of the above

Of course, one can also think of a combination of those techniques; for example, an infrared flash could be used to inform a device that it should now listen to a Bluetooth signal or a GSM cellular broadcast. If implemented properly, this could combine the advantages of all technologies: As the infrared signal only has to carry a binary signal, the low bandwidth and limited range are not problematic anymore. And as receivers that did not see the flash do not listen to the radio signals, they can be configured to not pick up pictures that don't interest them at all.

Attacks on the Hardware

It is to be expected that some users will try to disable the proposed functionality by manipulating their devices. There are three general approaches that already are used to disable the “shutter noise” in current phones:

Implementation errors. Surprisingly many cellphones have implementation errors that allow to circumvent the protective mechanism. For example, some phones turn off the shutter noise if the entire phone is put in silent mode. For our protocol, it is possible that the transmission may be blocked by deactivating Bluetooth or by using it for communicating with another device while the picture is taken. There is little one can propose to counter the problem, and it is not even clear if these errors do not occasionally happen by intent.

Manipulated Hardware. Some users directly manipulate their cellphones hardware, i.e., by building a on/off switch into the speaker. For our protocol, the manipulation could detach the infrared light or the Bluetooth antenna. These attacks require a certain amount of skill and essentially always invalid the warranty, so they are unlikely to be used by an average attacker. If they are used, there is again little possibility for defense on the software side.

Manipulated Firmware. For some Cell phones, manipulated firmware is available on the Internet. This firmware then turns off the corresponding functionality. This attack is easy to perform by a broad audience. Once the manipulation has been done, essentially everybody is able to replace the firmware. As the possibility for updates and alternative operating systems is a desired one, this problem will remain. However, cell phone manufacturers have recently started to think about other functionality that a user may not manipulate, e.g., Nokias Superdistribution and Micropayment. Thus, it is foreseeable that this problem will be solved in the near future, e.g. by using a core-operating system that cannot be changed by the owner and building the real operating system on top of this core, or by TCPA/TCG-like technologies.

Software Implementation

A key point of our scheme is to embed watermarks with a picture identity into the pictures. An occasional collision between two picture identities does not cause significant trouble – it merely poses a minor annoyance to a user. Thus, the picture identity does not need to be excessively long. With a k -bit identifier, we need $1.2^{k/2}$ pictures for the probability of a collision being .

With an expected 70 million devices sold by 2006, a 40 bit identifier should be sufficient even for high usage of the cameras. Although there are no firm numbers, a embedding a 40 bit watermark into a picture with 640×480 pixels is quite realistic. For example, the watermark benchmark by Kutter and Petitcolas Kutter and Petitcolas, 1999 performs the tests with 100 bit watermarks on 512×512 , 24 bit colored pictures.

One of the weaknesses of our scheme is that everybody has to be able to extract the watermark information from the picture. This does not inhibit the privacy of the photographer, as the information

is a random string without any meaning. However, it does assist the photographer in attacking the watermark, as he can always verify if his modifications destroyed the information.

Limits of the technology Watermarking algorithms are the most critical part in the suggested infrastructure. Watermarking has its failures – the manipulation of digital images can damage or destroy watermarks if enough effort is taken to do so. Some watermarking technologies are robust against strong image operations such as re-scaling an image, others are not. Instead of focusing on each watermarking algorithm's individual failures, we suggest to review the PRM system as a large-scale system like the media industry's DRM efforts. DRM is very likely to be broken or bypassed by skilled individuals, but a high number of consumers lack the knowledge and energy to do so. PRM can be viewed the same – it has the potential to help individuals to detect a high number of privacy violations except for a few skilled ones. The technology might develop to improve watermarking, too.

Search engines The final part of our protocol is a search engine that allows the individual to locate the pictures on the Internet. Today, there are two major distribution channels:

On the World Wide Web, the search engine could work just like ordinary search engines today. All that is necessary is to extract the Watermark from the pictures and use it as an index. If the Watermark extraction is computationally easy, this can be done within the normal operation of search engines. For copy-right protection schemes, commercial web spiders are already available, such as DigiMarcs MarcSpider (see www.digimarc.com/products/imagebridge/MarcSpider/default.asp). Naturally, counter technologies have been developed that hide the pictures from the spider, for example by splitting it into many small pictures or by embedding it using Javascript. This is another point where a sufficiently motivated attacker can circumvent the scheme, which is hard to deal with unless the privacy of the photographer is inhibited.

On Peer-To-Peer networks, searching is somewhat more difficult. However, even now, lists of checksums of various files on peer to peer networks exist, e.g. www.sharereactor.com. A similar technology could be used to centrally collect picture identities, and thus provide efficient searching also on peer-to-peer networks.

Modifications

Stronger Watermarking

To strengthen the watermarking, some technique could be used that allows only selected parties (i.e., the search engines), to extract the watermark from the picture. The advantage is that it would become more difficult to attack the scheme, as the photographer can not easily verify if the watermark has been successfully removed. However, this would give selected parties the exclusive power to use the scheme. This may be unwanted, and raises the question on who selects these parties.

ID of photographer

To strengthen the protocol, the identity of the photographer or his cellphone could be added to the transmitted signal and/or the watermark. This would significantly decrease the risk that the protocol is broken by the photographer, as the individual learns his identity no matter how and if the protocol is distributed. However, this poses a massive privacy problem, as anonymous photographing would become impossible. A possible solution is to encrypt the identity using a randomized encryption scheme. In this case, the identity would only be revealed if there is sufficient evidence that the picture is illegal, e.g., because it was taken inside a public sauna. Still, it remains an open question who is allowed to decrypt the identities and how misuse on this side can be prevented.

Digests instead of Watermarks

An alternative to embedding a watermark into the picture is to broadcast a digest of the picture after it has been taken. This has the advantage that the picture does not need to be modified at all. However, the digest has to be resilient against picture transformations. To our knowledge, no technique of building a digest of a picture exists so far that would survive simple modifications to the picture. Nonetheless, for existing peer-to-peer trading systems, hash values of files are used to index media data and reate its quality, e.g. at www.sharereactor.com.

Broadcasting the Picture

In addition to the identifier, a strongly compressed version of the picture could be broadcasted as well. This would inform the individual if there is need to take immediate action, e.g. because a specially compromising picture has been taken or because a credit card has been photographed. On the other side, this costs significant bandwidth, and significantly infringes the photographers privacy.

Conclusion

In recent months, cameraphones have also been used in much more malicious ways than „just“ to invade privacy. Several reports have been published of cases where credit card information has been obtained by secretly taking a picture of the card. With today's cameras, a picture with sufficient quality can be taken from about one meter distance to the card.

Control over one's image is hard to enforce today. Using cryptographic technology and legal regulation in the way suggested above can improve an individual's ability to regain control over his image. As suggested by Alexander Dix (see Dix, 2000), privacy officers and data protection activists can draw new possibilities of privacy management online from the exploitation of technology that has been developed for digital rights management.

Initiatives to enact laws that ban the taking of unauthorized photos are of limited effect when they lack a technological support that supports enforcement and prosecution. On the other hand, users and consumers reject technology that presses restrictions on them. Our suggestion of a detection system for private photos being published on the Internet empowers individuals to detect and act upon violations without putting strong restrictions on cameras and photographers.

In our opinion, great advance for individual privacy can be achieved by applying DRM technology for personal rights management. For DRM, in face of its technological uncertainties, a market for watermarking photographs, videos and music has already developed, as illustrated by the vendor DigiMarc. Photo agencies and photographers rely on watermarking technology to counter un-skilled attackers. The same approach is feasible for Personal Rights Management.

Future Work

Many new applications of PRM can be imagined. Researchers might encounter filtering approaches where web hosting companies ensure legality of the images posted on their servers by using filtering mechanisms that prevent publishing photographs with no watermarks.

A photographer could choose to put some form of identification into a watermark to enable photo licence selling.

Electronic government applications such as traffic control and ticketing might benefit from adding time and place information into the photos when they are taken.

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Psychological Differences Between Male and Female Sex Offenders

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Introduction

The way society thinks about sex crimes has undergone two dramatic paradigm shifts in the last decade. First, new research upended a long-held belief that males were overwhelmingly the only perpetrators of sex crimes when data found that sexual offending by women was surprisingly common (though not on the same scale as male crimes) (Stemple & Meyer, 2017). Then, the #MeToo movement encouraged women of all backgrounds and social classes to come forward and share their stories of sexual harassment, abuse, and violence, which shed light on just how underreported sex crimes are in comparison to other crimes (Bennet, 2018).

As more sex crimes have been revealed through the stories of women, men, and children who survived them, more people around the world started to give attention especially regarding the possible ways to eliminate sex crimes and to protect the victims. While studies have found that sex offenders are not necessarily male in contrary to the common belief, there has not been much research done regarding the psychological difference between male and female offenders. The present paper will use a combination of real case studies of convicted sex offenders along with the existing literature to compare the psychology as well as mental illnesses of both male and female perpetrators around the world and begin to understand the psychology and profile of sexual offending from a gender perspective.

Defining Sex Crimes

The legal definition of a sex crime differs by country and legal system. Many different offenses fall within the sex crimes category (including rape, sexual assault, and indecent exposure). However, what all sex crimes have in common is that they involved either illegal or coerced sexual conduct

conducted by one or more individuals against another individual (Sex Crimes, n.d.). Some sex crimes may include violence, including grave violence, and others may be based on a lack of consent but without the use of force. In cases where the victim is too young to legally provide consent to a sex act, then the crime is called statutory rape. The issue of consent means that any form of sexual touching is a crime when a child is involved (Sex Crimes, n.d.).

Mental Illness: An Overview

Sexual violence and sexual offending are not symptoms of mental illness. However, those who commit sex crimes have been found to experience mental illness at a statistically significant rate. Additionally, sex offenders are also more likely to be neglected by the mental health system and psychiatrists as a result of a lack of knowledge and a deficiency in training (Sorrentino, Brown, Berard, & Peretti, 2018). To understand the impact of psychiatric disorders, it is helpful to explore the range of illnesses and the impact they may have on patients, their mental lives, and their decision-making skills.

Co-morbid psychiatric disorders exist in groups. Anxiety disorders include Generalized Anxiety Disorder, Social Phobia, and Post-Traumatic Stress Disorder (National Institute of Mental Health). The most common type of anxiety disorder is **Generalized Anxiety Disorders (GAD)**. GAD patients have persistent anxiety without a real-world cause. They often suffer from lack of sleep, difficulty concentrating, muscle tension, and more. **Social phobia** is a fear of social situations; people with social phobia fear being judged by others. For instance, the patients will avoid speaking or performing in public, having conversations with others, and meeting new people. **Post-Traumatic Stress Disorder**, or PTSD, is a mental disorder in which people get after a stressful, traumatic event such as sexual assault, wars, disasters, or accident. PTSD patients experience recurring flashbacks to the traumatic moment, avoidance, negative thoughts, and more.

The second group of mental disorder is mood disorders. There are two types of mood disorders: major depressive disorder and bipolar disorder. People are diagnosed with **Major Depressive Disorder** if their intense sadness lasts for more than two weeks. Patients of major depressive disorder not only feel sad but also “feel worthless and guilty, lose interest in their normal pleasures.” **Bipolar Disorder**, also known as manic-depressive illness, is a mental illness in which patients’ mental state moves between the manic state (“very happy”) and depressive state (“very sad”) (National Institute of Mental Health, n.d.). Depression in bipolar disorder is similar to depressive disorder; people lose interest, feel sad, and more. The manic state is briefer than the depressive state; in a manic state, people feel energetic, overly confident, and talk more. Sometimes, in cases of severe manic states, people might have hallucinations that are similar to or even mirror the experience of schizophrenic patients.

The third group of mental illness is personality disorders. There are ten types of personality disorders identified within three clusters (A, B, and C) (American Psychiatric Association, 2013). However, this paper will only discuss four personality disorders classified in two clusters. People with personality disorders often have other mental disorders such as anxiety disorder, mood disorder, and more together. First off, **cluster B personality disorders** are “characterized by appearing dramatic,

emotional, or erratic” and include antisocial personality disorder and borderline personality disorder. **Antisocial Personality Disorder** often referred to as ‘psychopaths’ or ‘sociopaths,’ includes features like the lost sense of conscience and emotion as well as social responsibility. **Borderline Personality Disorder** is characterized by a fear of being alone as well as problems controlling emotions and impulse. Second, **cluster C personality disorders** are “characterized by appearing anxious or fearful.” **Avoidant Personality Disorder** patients show avoidance of social interaction due to fear of rejection. The most significant difference between borderline personality disorder is that avoidant personality disorder does not show complex emotional characteristics as borderline does. **Dependent Personality Disorder** is a disorder in which people show excessive dependency on others and are unable to stay alone. People with a dependent personality disorder often experience anxiety because they fear abandonment and rejection.

The fourth group is the paraphilic disorders, which are recognized as a common co-morbid psychiatric illness among sexual offenders (Sorrentino, Brown, Berard, & Peretti, 2018). **Paraphilia** is a broad term for any disorders that are characterized by frequent sexual fantasies and behaviors. There are different types of disorders within the category, depending on the subject that one might have sexual fantasies about. The disorder causes various problems to the patient and people around because of the arousal. **Pedophilia** is a type of paraphilia and a disorder where people have sexual fantasies to children (13 years or younger). People are diagnosed as pedophilic when the condition of distress and sexual arouse continues for six months or more (Seto, 2008). The other most common types of paraphilias are exhibitionism, voyeurism, and frotteurism.

Schizophrenia is a psychiatric disorder in which patients have ‘split mind’: patients have a split between reality and their perceived world. Schizophrenic people have three significant symptoms: **psychosis** (impair of emotion and reality), hallucination (false sense - auditory hallucinations are most common), and delusions (false belief).

Substance use disorder is a disorder in which people continue the use of a substance even though they have problems as a result of their recurring use of the substance (such as relationship problems, financial problems, job loss, etc.) (McLellan, 2017). The substances that are involved include the following but not limited to alcohol, caffeine, cannabis (marijuana), hallucinogens (LSD), and stimulants (cocaine). People with substance use disorder cannot control their urges, have social problems, use substances even in dangerous situations, and show severe dependence. **Alcohol dependence** is a type of substance use disorder; substance use disorder specific to alcohol.

Intellectual disability is a neurodevelopment disorder in which the intellectual functioning of the person causes limitation in ordinary life (American Association on Intellectual and Developmental Disabilities, 2010). People with an intellectual disability are unable to use adaptive skills like memory, understanding other’s emotions, social judgment, personal care, and more. Patients with an intellectual disability have impairment due to decreased intellectual functioning (low standardized intelligence test such as IQ scores) and usually having other mental disorders as well.

Impulse control disorder is characterized by an inability to resist the urge to do something even if it might harm others and bring conflict (Grant, 2008). People with impulse control disorder continue with the behavior even though they might face negative consequences. There are five common types of impulse control disorder: kleptomania (stealing), pyromania (setting fire), intermittent ex-

plosive disorder (respond to minor trigger - physical violence), pathological gambling, and trichotillomania (hair-pulling). Other impulse control disorders that do not fit into these five categories are called unspecified impulse control disorders.

Gender Differences in Sexual Offenders: Literature

Recent research has changed the academic perspective of who perpetrates sex crimes. Revelations from large-scale surveys found that men were more likely to be victims of sex crimes than previously thought, and in 79 percent of those cases, the perpetrator was a woman (Stemple & Meyer, 2017). However, decades of research also argued that female sex offenders have a profile that is distinct from male sex offenders and thus the group should receive their own typologies because the typologies used for male offenders do not represent the female experience. Despite these arguments, there was no empirical evidence that this was true (Freeman & Sandler, 2008).

Previous hypotheses suggested that gender differences in sexual offenders were more likely to be a result of socialization, gender inequality, and gender roles. They were also believed to experience the same risk offenders: a history of criminal behavior, family relationships, antisocial peers, and unstable employment. Self-esteem, prior victimization, and depression were recognized as being more influential on female offenders. The profiles suggested that females were: less dangerous to the community, at a lower risk of imprisonment, and were less likely to be violent compared to males; though, they were also recognized to have more significant history of property or drug offenses as well as issues with substance abuse and mental health (Freeman & Sandler, 2008).

Data shows that there is an increasing prevalence of mental illness among those who violate the law, including among those who commit sex crimes (Moulden & Marshall, 2017). Although not all sexual offenders have paraphilic disorders, those who do have a higher risk of re-offending (sexual recidivism) than those without a paraphilic diagnosis. For example, Ahlers et al. (2011) found that among non-offending populations, 44 percent of participants reported paraphilic behavior: the most common fantasies were voyeurism, fetishism, sadism, masochism, and frotteurism. Abel et al. (1988) found that sex offenders often expressed more than one paraphilia, with only one paraphilia being rare. Paraphilic sex offenders also have higher rates of co-morbid disorders that include borderline personality disorders, depressive disorders, obsessive-compulsive personality disorders, and histrionic disorders (Sorrentino, Brown, Berard, & Peretti, 2018). However, studies of paraphilic sex offenders largely include exclusive samples that contain males only. Additionally, Taborda and Michalski-Jaeger (2012) argue that female offenders are less likely to be diagnosed with a sexual disorder. However, a study published in 1990 documented the sexual arousal of a 20-year-old female pedophile with multiple paraphilias (who was a victim of incest and active participant). The study found that her profile was similar to the general profile of male child molesters (and incestors in particular) (Cooper, Swaminath, Baxtera, & Poulin, 1990)

As documented in the case studies and found in reviews elsewhere, female sex crimes are more likely to be committed by younger females to who target older children and adolescents (mostly males) and females are less likely to be strangers to the victim and more likely to be in positions of authority (such as teachers) (Bourke, Doherty, McBride, Morgan, & McGee, 2014). However, there are also more

similarities than differences in the biographies of male and female sex offenders except criminal histories, where males engaged in violent offenses more often than females. Additionally, incidents perpetrated by males usually presented more psychological effects on victims because their crimes were more likely to be nonconsensual and more violent.

When it comes to sentencing, the criminal justice system typically applied lesser sentences for female offenders due to legal factors such as admitting guilt, prior good behavior/less extensive criminal record, and blameworthiness. Comparatively, male offenders were more likely to blame their victims or disregard their participation in the crimes as being a crime or violent offense.

Case Studies

The topic of sex offenders is not often covered in training programs or textbooks despite sexual violence being a global public health problem. As a result, there is little existing literature on the issue of gender difference in sexual offending. Instead of the lack of literature, it is useful to look at real-world case studies to compare the biographies of recently convicted offenders from around the world. What literature does exist, such as Ph.D. dissertation research also takes this approach in some cases.

Brett Kean Case

In 2016, Brett Kean, a 41-year-old man with schizophrenia, was accused of raping a 19-year-old girl in a hotel located on the island of Jersey in the United Kingdom (Man found guilty of rape and indecent assault, 2019). Kean and the victim were staying in the same hotel; they met at the bar. While drunk, they had consensual sex; a week after, Kean harassed her by stalking, calling her nonstop, and visiting her room at late night. On the day of the crime, Kean visited her room at 1:20 am and raped and sexually assaulted her. It is told that he said “[g]irls always say that, you don’t need to stop until they are screaming” when the teenager always told him to stop. The proceedings were delayed to April 2017 due to Brett Kean’s mental health, which included a move to a secure unit in the UK as a result of a “marked deterioration in his mental health” (Maguire, 2019). Kean’s advocate called for six years of prison claiming that his mental illness was a factor in the crime; he had previously spent time at mental-health facilities in both Jersey and on the mainland, but his diagnosis (if any) was not released to the press. In 2019, Kean was handed a sentence of seven and a half years and a mandate to be registered on the Sex Offender’s Register for ten years.

Trevor B Wimer Case

Trevor B. Wimer is a serial rapist who was suffering from paraphilic disorder (fantasies of non-consensual sex) (Deppen, 2016). He sexually assaulted more than seven females from 2012 to 2015 using the same method. Wimer lured females through social media and text messages and made them

unable to escape once they entered his place. He then gave alcohol and marijuana to the teenagers before assaulting them. He has been convicted and sentenced to 20 to 40 years in prison.

Ashton Natomagan Case

Ashton Natomagan has a long history of criminal behavior. According to CBC, his first sexual assault was in 2002 when he attacked – choked unconscious and sexually assaulted – a 10-year-old child (Johnston, 2018). He was convicted of four years in prison. Six years after he assaulted a 10-year-old child, he beat and sexually assaulted a 16 years old teenager while high on cocaine and drunk; Natomagan was convicted of five years in prison for the crime. Not long after his release on March 2015, he committed another crime; he kidnapped and sexually assaulted a 37-year-old woman while she was out for a jog. His psychologists and psychiatrists told the judge that he has antisocial personality disorder (psychopathic) and there is high risk to re-offend; the judge is considering to put him in prison until it seems like he will not cause any harm in the community.

Senior's Fiancé Murder Case

On May 27, 2019, a paraphilic man tried to assault his boss's fiancé sexually but ended up murdering the woman. He visited the fiancé's house in the early morning and tried to assault her; after 40 minutes, she jumped off from her apartment. The offender took her back up to her bedroom and choked her to death. The offender already had three charges of sex crimes: each happened in 2001, 2007, and 2015. On 2001, he was prisoned for three years with sexual assault causing bodily harm. Six years later, he was convicted with five years' prison time with the same crime; on 2013, he sexually assaulted a woman and was convicted with five years of prison time, tracking, and electronic anklet. Although the prosecutors requested for chemical castration due to his medical record of paraphilia, the court rejected this request; then the murder case happened after a couple of months after his release. He is still waiting for his conviction for this murder case.

Jackie Mary Hays Case

Jackie Mary Hays, a teacher's aide suffering from borderline personality disorder, was accused of grooming a 15-year-old student in 2015 (Wakatama, 2018). She sent explicit text messages to the student and groomed him; the text messages continued for 14 months and the recipient first "said he was chuffed" but things changed as time went on. While she blamed her sex drive and lack of judgment on her weight-loss drug and an unhappy marriage, the judge ruled that the drug did not impact her that much. She also applied to have her case dealt with under the Mental Health Act, but the magistrate rejected her application as her case was too severe for dismissal. She could have been jailed for ten years, but she had a suspended sentence of 12 months due to prior good behavior as well as the deep remorse she expressed for her offense and the acknowledgment that what she had done was wrong.

Stephanie Peterson Case

A bipolar middle school teacher in Florida, Stephanie Peterson, was arrested for having sex and sending explicit text messages with a 14-year-old male student, whom her defense argued was a “willing participant” (Naham, 2018). However, at 14, the boy was not legally old enough to consent (Tron, 2018). The event ended when the boy told his parents about the relationship. The woman, who was 27-year-olds, admitted guilt to second-degree felony lewd and lascivious battery sex act with a child as well as the electronic transmission of material harmful to minors. However, she argued that her mental health issues created a mania that made her “hypersexual” and caused her to act in ways that did not appreciate the consequences of her actions. The conviction was initially planned to carry a seven to ten-year sentence, but because she is mentally ill and was very sorry to the boy, she ultimately received three years in jail, two years community control, and a requirement to register as a sex offender.

Lauren Coyle-Mitchell Case

Lauren Coyle-Mitchell, a 36-year-old second-grade teacher in New Jersey, admitted that she sexually assaulted a 15-year-old student as other teachers claimed that Coyle-Mitchell had inappropriate contact with the student (Attrino, 2019). The state presented evidence that Coyle-Mitchell probably assaulted the teenage girl between October of 2014 and June of 2015 by taking her home and performing oral sex on her. Coyle-Mitchell was arrested due to the inappropriate behavior with a female student during a school trip; although she had no contact order from the court, she violated it and attempted to call and text the girl with a restricted number. Her attorney claimed that she had poor judgment due to her anxiety disorder and post-traumatic stress disorder; she was convicted and sentenced with five years in prison as well as registration as a sex offender and suspension of her teaching license.

Debra Lafave Case

The Debra Lafave case was one of the first prominent teacher-student sex scandals in the United States, and her case was one of the first to result in international notoriety (Helling, 2017). In 2004, the then-24-year-old Debra Lafave had a sexual relationship with a 14-year-old student when she was 24 years old as a school English teacher. The boy’s parents were alerted when Lafave accompanied the victim to visit a cousin, and his aunt was concerned about the boy spending time with an adult woman who was dressed provocatively. In 2004, Lafave had sex with the student several times at a car, her home, and a classroom. The boy admitted to his mother that he had a sexual relationship with Lafave.

Lafave was charged with two counts of lewd and lascivious behavior and sentenced with three years of house arrest as well as probation and registration as a sex offender after her attorney famously argued against sending her to a women’s penitentiary. The court heard that Lafave was suffering from bipolar disorder and could not control her sexual desire during her manic experiences and was

undergoing treatment. Lafave pled guilty and offered both her regrets and apologies to the boy and his family (Helling, 2017).

Discussion of Case Studies

The case studies above identified real gender differences in both the type of crime committed and the impact of the crime on the victims. Although these differences cannot be seen to be representative due to the small sample size and the reliance on reports rather than interviews with either the offenders or the victims.

The men discussed repeatedly assaulted females (often vulnerable women and girls), and their instances of rape and sexual assault were non-consensual and usually plagued by extreme violence, including choking. The men also struggled with paraphilia or psychopathic personality disorders that also made them at a higher risk of reoffending (as stated by the judge in their court cases). Most would go on to re-offend and often more than once. Brett Kean was the outlier in this case whereby he made himself known to his victim, and it was not known whether he had a paraphilia. However, like others, he showed no remorse for his crime, and his victim suffered from severe PTSD as a result of his attack.

The women's cases discussed in the case studies were cases of grooming and statutory sexual assault (though none of the women were convicted of statutory rape) as a result of the age of the victims. The relationships were highly inappropriate and unethical, but generally, their victims often acknowledged that their relationships were consensual at first (even though a relationship with a minor cannot be consensual in most instances). In each case, the women made their plea while claiming that they had mood disorders such as bipolar disorder and post-traumatic stress disorder. Both their mental health issues and their expression of both guilt, regret, and apologies often lead to suspended sentences or shorter sentences than what is traditionally recommended. Thus far, none of the women have been convicted of a second offense.

The case studies matched the literature in the sense that women tended to target older adolescents (usually males) while using their position of authority to establish the relationship; in all the case studies, the women were the victims' teachers.

Conclusion

Both sexual offenses and the perpetrators of them remain misunderstood and too often outside the realm of interest among psychiatry researchers, educators, and clinicians. However, there is a new societal interest in gaining a better understanding of the profiles of the perpetrators of sexual abuse in part thanks to movements like #MeToo. The review of the case studies presented in this paper shows that there could be real gender differences in the psychology of sex offenders. Male offenders tend to use violence and are more likely to be diagnosed with paraphilia; they are also less likely to admit guilt or fault or express regret for their actions. Female offenders are more likely to target older children or adolescents known to them from their role in authority and experience mood disorders,

such as bipolar disorder, which they claim caused them to fail to appreciate the consequences of their actions at the time. The research available also suggests that this is true among more extensive samples of children.

Ultimately, there is still a long way to go in understanding not only the profiles of people likely to engage in sexual offenses but how those profiles can impact both prevention and treatment of sexual offenders. Hopefully, further research and de-stigmatization for victims of these crimes will improve the reporting of these crimes and better prepare us to understand those who commit them.

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The constitutional rights of children

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The significant difference between modernity and past eras is that modernity emphasises choice and autonomy and the past relied upon fate. This is an enquiry both into the effectiveness of constitutions in seeking to protect the autonomous rights of children and whether a global culture of children's constitutional rights is beginning to develop. Children's civil and political constitutional rights are analysed as well as their economic, social and cultural constitutional rights, as it is the poorest children, who many unthinkingly dismiss as being beyond the scope of justiciability and the courts.

THE "4 PS"

Prevention and provision

In South Africa the constitutional rights of children remained in the television and newspaper headlines week after week, and in one area of children's constitutional rights, the child's right to life and access to health services, may even have contributed to the downside of the South African rand trading in international markets. A non-governmental organisation, the Treatment Action Campaign, together with another non governmental Organisation and a doctor, challenged the South African government over its refusal to provide all HIV positive mothers with the drug nevirapine, which was designed to prevent mother to child transmission of HIV/AIDS. The background to the case, although not an issue directly raised in the Constitutional Court, was that senior members of the South African government, including President Mbeki, appeared to be uncertain as to whether there was a link between HIV and AIDS. The government's policy was to make nevirapine only available at 18 pilot sites reaching 10 per cent of the population (this number was later increased but not significantly). Nevirapine however had been licensed in 1998 by the ANC government and in 2001 by the World Health Organisation for the prevention of mother to child HIV transmission. In effect the government's policy made a child's survival dependent on the lottery of geography.

Prevention is vital. It is estimated that over 4.5 million people, or 10% of the population of South Africa, is HIV positive. The agonising reality is that 24% of pregnant women in South Africa are HIV positive and 70,000 children are infected each year through mother to child transmission of HIV. Mother to child transmission in South Africa is one of the most common forms of infection. Nevirapine does not save the life of the mother, but it does reduce significantly the chance of a baby who is not breastfed of becoming HIV positive.

The issue, however, is not simply one of medication. There needs to be counseling both before and after birth, because aside from the momentous impact of learning of HIV or AIDS, the manufacturers of Nevirapine have warned against breast feeding. This means that breast milk substitutes and clean drinking water need to be made accessible, and this has immense resource implications for South Africa.

HIV/ Aids can be treated with anti-retroviral drugs such as AZT and Nevirapine, but Nevirapine differs from most inhibitors in being cheap and simple to administer. All that is required is for the mother to take a single pill before birth and for the baby to be given a few drops within the first 72 hours. The government argued that it would be a breach of the separation of powers for the courts to order the executive to prescribe a specific drug.

The Constitutional Court saw the issue in a different light (see further ***Minister of Health and Others v Treatment Action Campaign and Others*** CCT8/02, Judgment of 5 July 2002). In a unanimous opinion delivered by Chief Justice Chaskalson the Court ruled that it had the jurisdiction to answer two questions. Firstly, did the measures adopted by the government to provide access to health care services for HIV-positive mothers and their newborn babies meet its obligations under the Constitution? Article 27 (1) of the South African constitution guarantees the right of everyone to have access to health care services, including reproductive health care. Secondly, as section 27(2) of the Constitution obliges the state to take reasonable legislative and other measures within available resources to realise the right to health, had the government adopted a comprehensive policy for the prevention of mother to child transmission of HIV. The answer to both questions was in the negative.

The Constitutional Court conceded that courts are ill-suited to adjudicate upon issues where court orders could have multiple social and economic consequences for the community. However, although the South African Constitution protects economic and social rights, the Constitution contemplates a restrained and focused role for the courts, namely to require the state to take measures to meet its constitutional obligations and to subject the reasonableness of these measures to evaluation. Although this judicial process may have budgetary implications, judgments are not in themselves directed at rearranging budgets. In this way, the judicial, legislative and executive functions achieve appropriate constitutional balance.

The Court argued that there were no bright lines separating the roles of the legislature, executive and courts but that did not mean that courts cannot make orders which impact on policy. The Constitutional Court ordered the government to make Nevirapine available free of charge at all public health facilities. The Government was also ordered to make provision, if necessary, for counsellors to be based at all public hospitals and clinics and trained for the necessary counselling for the use of Nevirapine. At the Barcelona AIDS Conference the government announced that it would abide by the decision of the Constitutional Court.

Even before the Constitutional Court's judgment, the case succeeded in raising the profile of children's constitutional rights. Constitutional challenges are being prepared on the quality of children's education – particularly amongst the rural poor – the costs of education, and cases on the child's right to social security. Another case, which is being researched, is arguing that specific arms sales are contrary to the constitution because inter alia they prevent the government honouring its constitutional obligations to health and children's education. There is some legal support for such an approach, as the United Nations Committee on the Rights of the Child, which South Africa as a party to the Convention on the Rights of the Child has to report to, has criticised Egypt and Indonesia on the proportion of their budget spent on defence, as compared to the proportion spent on children's social expenditure (see further Van Bueren, "Alleviating Poverty through the Constitutional Court", 15 *South African Journal of Human Rights* 1999, 52).

South Africa has incorporated a very progressive approach in relation to international human rights law. Under section 39 of the Bill of Rights, judges considering any provision of the Bill of Rights are under a legal duty to consider international law (the wording of the section provides that courts 'must consider international law'). It is the proportions which are of concern to the United Nations Committee not the totals spent. An approach, which focuses on proportions, totally undermines the frequently heard government argument of non-affordability.

The development of a broader test case strategy to protect children's constitutional rights is positive. Children's rights, like women's and the rights of those with disabilities, are inherently inclusive. There is an improvement in the lives of other sections of the community, as it is neither desirable nor possible, to protect children's rights in isolation from their families and communities. However, the South African Constitutional Court appears to have adopted a different perspective. It is genuinely concerned over the implications of a constitution which grants children specific rights, because the Constitutional Court argues, there is a risk that children's rights may trump adult rights.

In the earlier and landmark case of *Grootboom (Government of the Republic of South Africa et al v Irene Grootboom and others)*, Judgment of the Constitutional Court of South Africa, 4 October 2000), Mrs Irene Grootboom and 899 respondents were homeless because they were evicted from metal self-built shacks, which had been erected on private land earmarked for formal low-cost housing. Many had applied for subsidised low-cost housing from the municipality, but had been on the waiting list for as long as seven years. The respondents were mainly but not exclusively, women and children.

The South African constitution enshrines a specific section, section 28, on the rights of the child. This provides that the best interests of the child are of paramount importance – a standard which is higher than the Convention on the Rights of the Child, which only provides that the best interests shall be 'a primary consideration.' Significantly, in contrast to other sections of the Constitution on economic and social rights, the rights of the child section, does not incorporate a limitations clause.

In the High Court Judge Davis had ruled that the government, local, provincial and national had been in breach of the child's right to basic shelter and ordered the government to make the necessary resources and materials available to provide for basic shelter and for access to clean drinking water. The best interests of the child clearly played a significant role in his decision.

Two different approaches were taken by the High Court and the Constitutional Court in relation to Grootboom. The differences, in part, focused upon the nature of housing and shelter.

The Constitutional Court rejected the High Court's distinction between shelter and housing. The judgment of the High Court interpreted section 28(1)(c) as obliging the state to provide rudimentary shelter to children and their parents "on demand if parents are unable to shelter their children", and such a duty is "irrespective of the availability of resources." This obligation is in addition to the section 26 duty to take reasonable legislative and other measures.

According to the Constitutional Court the High Court's reasoning produced... "An anomalous result: People who have children have a direct and enforceable right to housing under section 28(1)(c) while others who have none or whose children are adult are not entitled to housing under that section, no matter how old, disabled or otherwise deserving they may be. The carefully constructed constitutional scheme would make little sense if it could be trumped in every case by the rights of children to get shelter from the state on demand." The Constitutional Court thought this created the risk of children being exploited "as stepping stones to housing for their parents."

Housing and shelter are "related concepts" – the goal of housing is to provide "physical shelter". Under paragraph 73, housing can be distinguished from home which according to the European Commission on Human Rights is concerned with an existing structure and does not imply the right to be provided with housing accommodation (see Applications No 5727/72, 5744/72 and 5857/72). The clear lack of a qualifier before shelter implies that it is not restricted to basic shelter. "The concept of shelter in section 28(1)(c) embraces shelter in all its manifestations." Both the approach of the Commission on Human Settlements and the Global Strategy for Shelter to the year 2000 appear to support this relatedness, providing a definition which is very close to adequate housing: "Adequate shelter means adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost."

This, however, begs the question, why did the drafters of the Constitution choose to use different terminologies in the two sections, particularly since Yacoob J "cannot accept that the Constitution draws any real distinction' between housing and shelter?" (para 73). This leads to one of three conclusions: either the Constitution at the very least unhelpfully muddies the waters by using two different words for two similar concepts; or the Constitution is flawed, using two different words when it only intended only one concept; or the notion of shelter enshrines an additional entitlement for children and therefore for any family members on whom the child is dependant.

The problem is, what is the additional entitlement? Davis J avoided the trap and did not equate shelter with child institutions in which adult family members do not remain. He defined shelter as the "right to be protected from the elements in circumstances where there is no need to remove such children from their parents." It must also mean something other than institutionalisation, as under the Convention on the Rights of the Child and other international laws institutionalisation is the last resort.

This left the Constitutional Court with a quandary. A constitution which it had certified only five years previously contains a result, which it found unacceptable. The Constitutional Court impressively and deftly performed gold-medal-winning legal gymnastics. If anyone blinks, even for a moment, they

miss the shifting of weight (see further Van Bueren, “No Turning Back, The Right to Housing is Justiciable in *Cheadle, Davis and Haysom*”, South African Constitutional Law: Bill of Rights 2002).

Protection

Children’s rights can be divided into the four Ps – prevention, provision, protection and participation (see further Van Bueren, *The International Law on the Rights of the Child*, Kluwer, 1998, at 15). The Treatment Action Campaign and Grootboom focus on issues of prevention and provision– the prevention of HIV/AIDS and the provision of housing and basic shelter. The Canadian case of Sharpe (*R v Sharpe*, Judgment of the Supreme Court of Canada, January 26 2001) raises issues surrounding the third P – protection.

John Sharpe was charged with two counts of possession of child pornography for the purpose of distribution or sale, as well as two counts of simple possession for his own private use. As part of the evidence was a collection of 17 stories written by Sharpe. It was accepted at the trial that the stories were extremely violent, the majority of them, with sexual acts involving very young children and in most cases concerned children under the age of 10 engaged in sadomasochistic and violent sex acts. The theme is often that the child enjoys the beatings and the sexual violence, and that children are actually seeking out such treatment. Conveniently absolving John Sharpe of any moral responsibility.

Prior to the beginning of his trial in the Supreme Court of British Columbia, Sharpe challenged the constitutionality of a number of provisions of the Criminal Code including, that mere possession of child pornography infringed his right to “freedom of thought, belief, opinion and expression”. The majority of the Canadian Supreme Court, agreeing with Sharpe’s counsel that the restriction on simple possession of child pornography was disproportionate. The majority of the Court held that... “The cost of prohibiting such materials to the right of free expression, outweighs any tenuous benefit it might confer in preventing harm to children.”

The use of the word tenuous is significant. The distinction between the private and the public has always been used to the detriment of children enjoying constitutional rights and with sexual abuse and sexual exploitation, it is precisely in the private, where much of the abuse is perpetrated. Sharpe does nothing to combat such abuses.

In an impassioned minority judgment written by L’Heureux-Dubé the judges found that the constitutional protection of any form of expression which risks undermining Canada’s society’s fundamental values must be carefully scrutinized. The minority found that the very existence of child pornography is inherently harmful to children and to society. According to the minority this harm is independent of any dissemination or any risk of dissemination, and flows directly from the existence of the pornographic representations, which on their own violate the dignity and equality rights of children.

The minority did concede that the attitudinal harm inherent in child pornography is not empirically measurable, nor susceptible to proof in the traditional manner (see Thomson Newspapers, *supra*, at para 92, and *R v Mara*, [1997] 2 S.C.R. 630), but argued that the harm of child pornography is inherent, because it is degrading, dehumanising, and objectifying depictions of children, which by their

very existence, undermine the Charter rights of children and other members of society. Child pornography, the minority argued, eroticises the inferior social, economic, and sexual status of children. It preys on pre-existing inequalities.

The minority judgment also questioned, whether in the computer age a clear distinction can be drawn between mere possession and possession with intent to distribute. This was a point which did not appear to weigh heavily with the Chief Justice and the majority, even though some of Sharpe's material was on computer disk and capable of instantaneous distribution.

The *Sharpe* case illustrates the obstacles in protecting children's rights in constitutions which have no child specific provisions. The Canadian Charter of Rights expresses the right to freedom of expression and thought but does not contain any express rights on children, outside of children's linguistic educational rights. The Canadian Supreme Court interprets legislation on the basis that the legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context, in which legislation is enacted and, so far as possible, interpretations which reflect international values and principles are preferred (*Slaight Communications*, supra, at pp 1056–57). Where there is a balancing of competing interests, as there was in the *Sharpe* case, the balance must be informed by Canada's international obligations. The implication is that the prohibition of child sexual exploitation and the principle of best interests of the child, both enshrined in the Convention on the Rights of the Child to which Canada is a party, ought to have been weighed in the balance.

The *Sharpe* case is even more extraordinary because of its timing. The judgment was delivered at the beginning of 2001, at a time when the Canadian government was preparing for a United Nations Congress on Child Sexual Exploitation, preparing its report on how Canada has abided by its international legal obligation to eradicate child pornography. As the minority of judges in *Sharpe* observed, the Canadian Charter ought not to be used to reverse advances made by vulnerable groups or to defeat measures intended to protect the disadvantaged and comparatively powerless members of society (On this point, it is helpful to refer to *R v Edwards Books and Art Ltd*, [1986] 2 S.C.R. 713, Dickson CJ at p 779). Yet this is precisely what happened in *Sharpe*.

Participation

The fourth P is participation, which is seen as the most radical of the 4 P's and for which there still needs to be much progress, particularly in relation to children participating as a group. Like South Africa, Hungary and Estonia, although for very different reasons, are states in transition. In Hungary, the Act of Association requires a judge to refuse registration of an association if the objectives of the association violates the rights and freedoms of others. The statute of a gay rights association allowed for the membership of children under the age of 18 and registration was refused. The question before the Constitutional Court of Hungary was whether there had been a violation of any constitutional rights and the Constitutional Court of Hungary replied in the negative (Judgment 21/1996 in *Magyar Kozlony* 39/96 – the English summary is at www.Codices.coe.int at HUN-1996-2-005).

The Hungarian Constitutional Court stated that it regarded homosexuality as having a controversial standing in Hungarian society. The Constitutional Court regarded membership of the association as

akin to taking up a public position on sexuality, which the Constitutional Court believed could be decisive for the child's moral and physical development in later life. The Hungarian Constitutional Court did not say that being gay would endanger the moral development of children, as this would have been open discrimination rather the Court, argued that because of a child's age, a child may not be sufficiently mature to take such a mature decision (I am grateful to Stephanie Megies for this case).

Yet the concept that children who may not yet have chosen their own sexuality being forced into a homosexual relationship, is one of the classic prejudices against gay men and women. According to the Court being gay was a decisive decision, because of the negative images of gay men and women in Hungarian society. The Court seemed to be unaware that its own ruling would add to the social stigmatisation felt by young gay people.

The Constitutional court did concede that being a member of a gay association would be very helpful for a gay child, but the Court said that membership in a gay association would constitute a public commitment that would preclude children from choosing a different sexuality later on in life. Although the Court sought to emphasise that its decision was not in any way influenced by a moral judgment on homosexuality, the Court appeared singularly unaware of the impact its own subjective belief had on a judgment concerning child sexuality.

The Court could have adopted a very different approach, arguing for the need for a more accepting, diverse society in Hungary but instead it fell back on an age old myth, that older children are unable to make informed decisions about their own sexuality. The duty of the state to protect children was misinterpreted by the Court, as it often has been in history, to limit the right of children to freedom of association. A more positive position on the child's constitutional right to freedom of association has been taken by the Constitutional Court of Estonia. The President had referred a statute, The Non-Profit Associations Act, to the Constitutional Court, as it raised issues in relation to article 48(1) of the Estonian Constitution, which provides that: "Everyone has the right to form non-profit associations."

The Estonian Non-Profit Associations Act prohibited all those under 18 from establishing non-profit associations. The President argued that the words "everyone in the Estonian constitution" meant just that, and that Estonia, as a party to the United Nations Convention on the Rights of the Child, was bound to implement the child's right to freedom of association enshrined in article 15 of the Convention. The Constitutional Court accepted these arguments and declared the Non-Profits Associations Act unconstitutional. This paves the way for child unions and indeed for children's membership of political organisations (Riigi teataja I 35 Article 737. English summary at www.Codices.co.ee. int EST-1996-2-2001).

HOW HORIZONTAL?

Children's rights are capable of proper protection under national constitutions, but this still leaves the question of whether they can effect how a state regulates relationships between individuals. In essence, horizontality concerns trickle down. How far are the constitutional rights of child citizens protected in their private as distinct from their public relationships? The issue is a particularly crit-

ical one for children. Many children spend significant parts of their lives in the private sphere and conduct relationships with private individuals as distinct from public officials. Constitutional courts which only protected the public sphere would offer few effective remedies for most of the constitutional violations endured by children.

The Slovakian Constitutional Court considered the case of a 14-year-old girl who had been assaulted on a number of occasions by two boys in her neighbourhood. On at least two occasions her injuries were such that she required medical attention. The girl's mother applied to the district government which had a legal duty to protect children's welfare and the district government met with the father of the two boys to discuss the boys' behaviour but took no further action.

The mother, on behalf of her daughter, argued before the Constitutional Court of Slovakia that her right to privacy and family life, as guaranteed under article 19(2) of the Slovakian Constitution had been breached and further she argued that two articles of the Convention on the Rights of the Child, article 3(2) and article 16, had been violated due to insufficient protection by the district government (Zbierka nálezov a uznesení Ústavného sud Slovenskej republiky, English summary at www.codices.coe.int at SVK-1997-3-008). Article 16 of the Convention on the Rights of the Child prohibits unlawful interference with privacy and family life, and article 3(2) of the Convention obliges the government take all appropriate legislative and administrative measures to ensure the well being of the child (see further Van Bueren, *The International Law on the Rights of the Child*).

The Constitutional Court ruled that merely because the case concerned a child did not mean that children ought to have a lower expectation of enjoyment and protection of their constitutional rights. The Court held that the constitutional guarantee of rights also bound the state to protect constitutional rights in relationships between private individuals, this the Court ruled was a positive duty placed on the state by the Constitution. The Constitutional Court ruled that the district government did not perform its obligation to take all administrative measures, as laid down by the Convention on the Rights of the Child, and that the constitutional right of the child to privacy and family life had been violated. The Slovakian judgment is a case with much potential as it would also, by implication, place children's protection from domestic abuse firmly within the core of constitutional protection. It is a constructive intertwining of international and constitutional law.

CONCLUSION

The cases demonstrate that it is more difficult to develop a culture of child-centred jurisprudence under constitutions which omit child specific provisions. General constitutions which apply only to everyone, without incorporating specific child-centred rights, run the risk of creating a low priority and even invisibility of children as has happened with treaties such as the International Covenant on Civil and Political Rights. This has implications for the United Kingdom. The UK has incorporated a part of the European Convention on Human Rights into the Human Rights Act, but the Convention lacks an article similar to section 28 of the South African constitution protecting children's rights.

The *Sharpe* case also shows us, that where states such as Canada have to weigh competing rights in the balance, the heavier weight is more likely to be accorded to the expressly enshrined constitutional rights. It has to be asked whether a different weight would have been given by the majority

of the Supreme Court if the Canadian Charter protected children expressly from sexual exploitation, or expressly provided for the guiding principle of the best interests of the child? For lawyers it is far easier to argue under a comprehensive constitution than have to bring in, almost as a secondary argument, points of international law.

It is precisely where serious consideration is able to be given by the judiciary to the international right of the child that there is a corresponding improvement in the constitutional rights of children. It is no coincidence that the unacceptable levels of child poverty in industrialised states has happened in countries such as the United Kingdom, Canada and the United States where children do not have specific constitutional rights and where children are also disenfranchised. This lack of effective means of legal challenge simply means that governments are free to pass legislation, which draws from the children's share of national resources. The growing corpus of constitutional jurisprudence on children's rights demonstrates that not only are constitutions an appropriate practical vehicle for protecting the fundamental rights of all children, but they are also essential.

Critical Review of Sustainability Indicators

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Abstract

This paper provides a review and critical discussion of indicators, which attempt to combine the measurement of sustainability with that of well-being. It starts with some commonly agreed definitions of sustainability, showing how most well-being indicators tell us little if anything at all about this issue. Sustainability is most commonly defined in economics as non-declining utility or well-being over time. Yet, due to its future orientation, most indicators of sustainability such as Genuine Savings (GS) have merely focused on the capacity to provide utility in the future, but have not included the measurement of current well-being. Indicators of well-being such as the Human Development Index (HDI), on the other hand, have typically failed to account for sustainability in their measurement of current well-being. The paper then critically reviews the Index of Sustainable Economic Welfare (ISEW) and the Genuine Progress Indicator (GPI).

1. Introduction

Most indicators of well-being ignore sustainability and most indicators of sustainability ignore (current) well-being. A prominent example for the former is the United Nations Development Programme's Human Development Index (HDI), whereas the World Bank's Genuine Savings (GS) is characteristic of the latter. This paper provides a critical assessment of those efforts, which have tried to integrate both concepts into one single indicator or have combined the measurement of both without full integration. Before addressing these measures, let us define what we mean by well-being and sustainability. Well-being often comes under the name welfare or utility and we will use all three terms interchangeably here. In spite of its common use in economics and other social sciences, it is not easily defined in a concrete sense. We will simply understand well-being, welfare or utility as the satisfaction of human preferences. The better human preferences are satisfied the greater is well-being. From our definition it becomes clear that income is by far not the only relevant item creating well-being. Even if we exclude very personal determinants of well-being such as friendship, love and the like, which policy cannot influence, we end up with a great variety of welfare-relevant

factors. Health, education, freedom, autonomy, recreation, experience of nature, to mention but a few, are all examples of items that promote welfare. What contributes to welfare and by how much is of course to some extent open to subjective judgement.

Sustainability is sometimes narrowly defined in physical terms as environmental sustainability, where it refers to the maintenance of certain environmental functions. Economists, however, prefer a broader definition that is not confined to environmental sustainability. Definitions slightly differ, but the most common one sees sustainability as the requirement to maintain the capacity to provide non-declining well-being over time. Contrary to well-being itself, which has an orientation towards the present, sustainability is therefore a future-oriented concept. To make the notion of maintaining the capacity to provide non-declining well-being over time operational, economists have resorted to the idea of maintaining the value of total capital intact, which usually comprises manufactured capital, human capital, natural capital and sometimes social capital. Manufactured capital consists of factories, machineries, infrastructure and the like. Human capital refers to human skills and knowledge. Natural capital encompasses everything in nature that provides human beings with well-being, from natural resources to the pollution absorptive capacity of the environment. Social capital is difficult to define. It refers to things like the amount of trust, the extent of social networks, the willingness of individuals to co-operate with each other and their 'civic engagement' in social groups such as churches and unions (Putnam 1993). Even with this definition of sustainability, there are different conceptual paradigms of the conditions for achieving sustainability; specifically **weak** sustainability holds that natural capital is substitutable with other forms of capital, whereas **strong** sustainability rejects such substitutability and therefore focuses on environmental sustainability (Neumayer 2003).

The pursuit of well-being of the current generation is easily justifiable, notwithstanding the fact that in reality many policy makers pursue other and often contrary objectives. The pursuit of sustainability can be justified by a universalist ethic in the Kantian (1785) and Rawlsian (1972) tradition, which treats all human beings equally independent of their position in time (Neumayer 2003, Anand and Sen 2000). In addition, it can also be justified under the notion of 'usufruct rights', where each generation has the right to enjoy the fruits of accumulated capital without depleting it (Anand and Sen 2000: 2035).

Section 2 provides a critical discussion of the Index of Sustainable Economic Welfare (ISEW), which is the most prominent current example of an attempt to fully integrate the measurement of well-being and sustainability into one single indicator. Another indicator falling in this category is Osberg and Sharpe's (2002a, 2002b) Index of Economic Well-Being. Such attempts encounter formidable conceptual problems, which render it questionable whether well-being and sustainability should or even could be measured with one single fully integrated indicator. Section 3 assesses various proposals to combine sustainability with the measurement of well-being without full integration. For no clear reason all these proposals have focused on adding sustainability considerations to the Human Development Index (HDI). None of these proposals is entirely convincing either because they do not really tackle the sustainability issue or because they conflate the conceptually different measurement of human development with that of sustainability similar to the fully integrated indicators. As an alternative, section 4 therefore proposes to use so-called Genuine Savings (GS) as a sustainability check for well-being indicators. We discuss the proposal in the context of the HDI, but stress that our proposal can be applied to any well-being indicator. Section 5 concludes.

2. Fully integrated indicators of well-being and sustainability

Gross national product (GNP) or gross domestic product (GDP) were originally created as indicators of total economic output for macroeconomic stabilization policy and were therefore not meant to

be indicators of well-being.¹³⁵ On the other hand, it is certainly true that policy makers, the media and the public alike seem to equate GNP/GDP with well-being. In international comparison as well, we tend to think of the countries with a high GNP/GDP as not only the rich, but also the well-off countries. However, because income is just one of the components of well-being, GNP/GDP have long since been criticized as misleading and deficient indicators of well-being. Consequently, there have been many attempts at constructing better indicators. Since our objective is to review and critically assess indicators, which have combined the measurement of well-being with that of sustainability, we cannot discuss these efforts here. For an overview and references, see Hagerty *et al.* (2001) as well as the other papers arising from the UNU-WIDER project on Social Development Indicators (Measuring Human Well-Being).

Let us start with indicators, which have tried to fully integrate the measurement of sustainability into that of well-being. The Index of Sustainable Economic Welfare (ISEW), also known under the name Genuine Progress Indicator (GPI), is the most prominent example. It stands in the tradition of earlier attempts to include sustainability aspects into a well-being indicator—see, for example, Nordhaus and Tobin's (1972) Measure of Economic Welfare (MEW), Zolotas' (1981) Economic Aspects of Welfare (EAW) and Eisner's

(1990) Total Incomes System of Accounts (TISA).¹³⁶ The MEW and the EAW take environmental aspects into account, but only rudimentarily so. The MEW adjusts the welfare measure for 'disamenities of urban

life' such as 'pollution, litter, congestion, noise' based on hedonic valuation studies.¹³⁷ The EAW subtracts air pollution damage costs together with half of the estimated control costs for air and water pollution and the full control costs for solid wastes from the welfare measure. The TISA on the other hand does not include any environmental aspects into its measurement, but like the MEW and the EAW seeks to broaden the concept of capital and investment accounted for.

Because of space limitations, we will concentrate on the ISEW/GPI, which takes a more comprehensive set of environmental factors into account than either the MEW or the EAW does. Also, these older indicators are somewhat outdated now. An ISEW/GPI has been constructed for Australia (Hamilton 1999), Austria (Stockhammer *et al.* 1997), Chile (Castañeda 1999), Germany (Diefenbacher 1994), Italy (Guenno and Tiezzi 1998), the Netherlands (Rosenberg, Oegema, and Bovy 1995), Scotland (Moffatt and Wilson 1994), Sweden (Jackson and Stymne 1996), Thailand (Clarke and Islam 2003), the UK (Jackson *et al.* 1997) and the US (Redefining Progress 2001). The methodology differs slightly from study to study, but all follow the same basic concept, which is well captured by the example of the GPI for the US. It starts by adjusting personal consumption expenditures for unequal income distribution and subtracts net foreign lending or borrowing as well as the cost of consumer durables.

¹³⁵ The revised United Nations system of national accounts makes this very clear: 'Neither gross nor net domestic product is a measure of welfare. Domestic product is an indicator of overall production activity' (Commission of the European Communities—Eurostat *et al.* 1993: 41).

¹³⁶ See Eisner (1990) for an overview.

¹³⁷ Such studies derive the value from environmental disamenities in comparing, for example, house prices from real estate, which is similar in all respects but the environmental disamenity.

It then subtracts a whole range of so-called social costs such as the costs of crime, traffic accidents, commuting, divorce, underemployment and loss of leisure time. The next group of deductions refers to the costs of environmental pollution such as air, water and noise pollution, environmental degradation such as loss of wetlands, farmlands and old-growth forests, and resource depletion. Two of these are by far the most important ones in this group. First, the costs of replacing non-renewable resource use with renewable resources under the assumption that the per unit costs of replacement rise by 3 per cent per annum. Second, the future or long-term damage costs due to carbon dioxide (CO₂) emissions, which are accumulated from year to year. Finally, a number of welfare-enhancing items are added such as the value of housework and volunteer work, the service value of consumer durables, public infrastructure and net capital investment.

All studies, which have computed an ISEW/GPI come to the same basic conclusion: starting from around the 1970s or early 1980s, depending on the country, the ISEW/GPI no longer rises very much or even falls, whereas GNP/GDP continues to rise. As an explanation for this widening gap between ISEW/GPI and GNP/GDP, Max-Neef (1995: 117) has put forward the so-called ‘threshold hypothesis’: ‘for every society there seems to be a period in which economic growth (as conventionally measured) brings about an improvement in the quality of life, but only up to a point—the threshold point—beyond which, if there is more economic growth, quality of life may begin to deteriorate’. This ‘threshold hypothesis’ is referred to in almost every recent ISEW/GPI study and Max-Neef (1995: 117) himself regarded the evidence from these studies ‘a fine illustration of the Threshold Hypothesis’.

The ISEW/GPI has been criticized on many accounts—see, for example, Nordhaus (1992), several authors in Cobb and Cobb (1994), Crafts (2002), Neumayer (1999, 2000, 2003, 2004). The two components, which have encountered the greatest critique, are resource depletion and long-term environmental damage. On resources, critics have argued that the replacement method overestimates the true loss of resource value with a bias that grows bigger over time due to the erroneous assumption of increasing per unit costs of replacing non-renewable resources. If anything, the costs of renewable resources such as wind and solar energy are falling rather than rising over time. In addition, the implicit assumption that the full amount of current non-renewable resource use needs to be replaced by renewable resources is also questionable given that there is no imminent danger of a running out of most non-renewable resources. On long-term environmental damage costs, its accumulation over time has been contested as flawed due to multiple counting. The damage costs for carbon dioxide emissions already cover the full future damage cost discounted to present-value terms such that accumulation would count the same damage over and over again—see Neumayer (2000a, 2003, 2004) for details.

Some of the problems of the ISEW/GPI are avoided in Osberg and Sharpe’s (2002a, 2002b) Index of Economic Well-Being. For example, they include a value for increases in life expectancy over time, which is ignored in ISEW/GPI (Crafts 2002). They also value leisure time and do not count human capital investment as regrettable or defensive expenditures as the ISEW/GPI does for 50 per cent of education expenditures. They do not commit the fallacy of multiple counting of long-term environmental damage in the form of carbon dioxide emissions. On the other hand, their environmental component is rather weak with resource consumption not included at all and carbon dioxide is the only pollutant accounted for.

As fully integrated indicators of well-being and sustainability both the ISEW/GPI and Osberg and Sharpe's Index of Economic Well-Being encounter another fundamental problem, on which we will concentrate here. The problem is that for measurement purposes one should not attempt to fully integrate well-being and sustainability into one single indicator. This is because what affects current well-being need not affect sustainability and vice versa—either not at all or at least not in the same way. This seems counter-intuitive given the conceptual links between well-being and sustainability. However, current well-being is affected by the way in which current total capital is used. Sustainability is only affected if the total capital stock itself is affected.

Take the depletion of non-renewable resources and long-term environmental damage from carbon dioxide emissions as examples. They affect sustainability as, all other things equal, they diminish the value of the total capital stock available to future generations. They rightly form a component of a sustainability indicator. But neither resource depletion nor long-term environmental damage negatively affect current welfare. They affect future, but not current welfare. One could therefore argue that they should be excluded from an indicator of current welfare. Against this reasoning, one might argue with Osborne and Sharpe (2002a: 300) that 'if individuals alive today care about the well-being of future generations, measurement of trends in current well-being should include considerations of changes in the well-being of generations yet unborn'. This is a good argument, but it depends on the assumption that changes to future well-being really do affect the current generation's welfare. More importantly, the argument cannot hold in the other direction as future generations cannot care for the welfare of the current generation. Hence, what affects the current generation's welfare should not be included in an indicator of sustainability. There are items in the ISEW/GPI and in Osborne and Sharpe's Index of Economic Well-Being, which affect current welfare, but are only loosely connected to sustainability, if at all. A good example for this is income inequality. The indicators fall if income inequality increases. Many would agree that the current welfare of society is negatively affected by a more unequal distribution of incomes. A society with a more unequal distribution of income generates less current welfare out the available stock of capital than another one with the same capital stock, but a more equal distribution of income. Not necessarily so with sustainability, however. A more unequal distribution of present incomes does not in itself diminish the value of the total capital stock available to future generations. There could be indirect effects as the distribution of income can affect savings and therefore investment decisions, which then affects sustainability. The available evidence is not unambiguous (Schmidt-Hebbel and Servén 2000), but if anything evidence seems to suggest that a more unequal distribution of income can be in the interest of the future because rich people have a higher marginal propensity to save than poor people (Smith 2001).¹³⁸ Hence, more income inequality can lower current welfare, but enhance sustainability.

The co-existence of factors within one integrated indicator of welfare and sustainability, which affect one, but not the other (or only weakly and ambiguously so), means that as the indicator rises or falls we do not know what rises or falls. A rising indicator could mean rising welfare and sustainability, rising welfare and a decline in sustainability (that is less in value terms than the rise in welfare) or falling welfare and a rise in sustainability (that is more in value terms than the fall in welfare). Which one is not clear. The lesson is that one needs two separate indicators to trace two distinct concepts.

¹³⁸ Anand and Sen (2000: 2038) also point out that redistribution to the poor in the form of better nutrition, health and education rather than income is likely to contribute to sustainability unambiguously. We agree, but the mere redistribution of income need not be sustainability promoting.

3. Indicators combining well-being and sustainability without full integration

Let us therefore turn to efforts at combining the measurement of well-being with that of sustainability without trying to integrate both into one single indicator. These efforts have concentrated on the United Nations Development Programme's (UNDP) Human Development Index (HDI), first published in 1990, which is also the perhaps most prominent and best known indicator of well-being. The exact methodology of the HDI has changed somewhat throughout time. Without going into detail, the HDI is currently computed as follows: It is made up of three equally weighted components, the income, the education and the health/longevity component. For the first two components a transformed variable is derived from basic data. For the income component a log transformation is applied, in effect discounting higher incomes due to supposed diminishing marginal utility. For the educational component the transformed variable consists of two thirds of the percentage rate of literate adults among all adults and one third of the combined first-, second- and third-level educational gross enrollment ratio in percentage. The health/longevity component is directly measured by life expectancy at birth in years. For each variable a maximum and a minimum is defined. An index is then calculated as follows:

$$X_{\text{index}} = \frac{(\text{actual value} - \text{minimum value})}{\text{maximum value} - \text{minimum value}},$$

X = (Income, Longevity, Education)

This index is calculated for each variable. A country's HDI is then simply the arithmetic average of its three indexes:

$$\text{HDI} = \frac{1}{3} \times (\text{Income_index} + \text{Longevity_index} + \text{Education_index})$$

The validity of the HDI as an indicator of well-being has been disputed in many respects—see, for example, McGillivray (1993), Hicks (1997), Noorbaksh (1998a, 1998b), Sagar and Najam (1998). We will not discuss the criticism it has encountered as other papers in the UNU-WIDER project pursue this task. Instead, we will concentrate on our major objective, which is to examine how indicators of well-being and sustainability have been combined with each other.

3.1 Sustainability extensions to the HDI

There have been many proposals on how the HDI could be amended to take environmental aspects or sustainability into account. First, Desai (1995) has developed an 'index of intensity of environmental exploitation', which ranks countries similar to the HDI methodology according to a composite index comprising greenhouse gas emissions per capita, water withdrawal as per cent of annual internal renewable water resources and energy consumption per unit of GNP. Desai does not, however, attempt to integrate this index into the HDI itself.

Second, Dahme *et al.* (1998) have proposed to rank countries according to their total material requirements and to use this data to construct an extension to the United Nations Development Programme's Human Development Index (HDI), called 'Sustainable Human Development Index' (SHDI). Total material requirement refers to the sum of all material inputs required to produce a country's national economic output. All material inputs are grouped into abiotic raw materials (mineral and energy resources), biotic raw materials, moved soil (agriculture and forestry), water and air and are aggregated in weight terms.

Third, Sagar and Najam (1996: 14) suggest that an increase in income per capita 'above a selected threshold—selected to represent a point that allows a reasonably high standard of living but beyond which consumption pressures on the environment start becoming excessive—the standard-of-living index should reflect this unsustainable lifestyle through a penalization on the index'. The resulting 'index of sustainable living' would go some way towards a SHDI according to its proponents.

Fourth, De la Vega and Urrutia (2001) have proposed to adjust the HDI's income component to reflect the environmental damage caused in generating the income. Their proposal focuses on carbon dioxide since it is the only pollutant for which comprehensive cross-country and over time data exist. Setting 60 tonnes of carbon dioxide emitted per capita as the maximum and zero as the minimum, they compute an 'environmental behaviour indicator' (EBI) according to the formula $EBI = 1 - CO_2/60$.

The harmonic mean of the EBI and the HDI's income component forms the so-called pollution-sensitive income component. This pollution-sensitive income component is then used in the usual way as one of the three unweighted components together with the longevity and education component to create a so-called pollution-sensitive HDI.

The fifth proposal by Ramanathan (1999) is close to the HDI methodology in setting maximum and minimum values for an index of deforestation, an index of the number of rare, endangered or threatened species, a greenhouse gas emissions and a chlorofluorocarbon emissions index, which are combined to an overall environment endangerment index (EEI). This aggregate EEI is then used to calculate a so-called Environment Sensitive HDI as the product of the HDI and the EEI. He does not, however, attempt to compute such an Environment Sensitive HDI.

3.2 A critical assessment of the proposed extensions

All these proposals encounter substantial problems and criticism. Desai's (1995) proposal refers to rather incomplete and partly irrelevant aspects of environmental pollution. For example, how much water a country withdraws as a per cent of annual internal renewable water resources is substantially determined by geological and climatic conditions and a higher percentage of use is not necessarily worse than a low percentage. Similarly, energy consumption per unit of GNP is just an efficiency measure. Carbon dioxide emissions are certainly relevant, but they capture just one aspect of environmental pollution. Also, to rank countries according to their carbon dioxide emissions does not tell us anything about the actual environmental damage caused or its unsustainability. Furthermore, Qizilbash (2001) demonstrates that the ranking of countries is very sensitive to the choice of

environmental factors looked at. If other environmental factors are included such as commercial and traditional fuel consumption per capita (instead of per unit of GNP), water resource consumption per capita (instead of as a percentage of annual internal reserves) and forest and woodland change, then the ranking is quite different from the one arrived at by Desai (1995).

De la Vega and Urrutia's (2001) pollution-sensitive HDI is similar to Desai's proposal in focusing on carbon dioxide emissions, but it attempts to integrate the pollution index into the income component. Again, no attempt at valuation is undertaken. Their proposal suffers from a major setback, however. Countries with very high per capita emissions such as some of the Middle East oil producing countries, Luxembourg, Australia, Norway and the US move down in the pollution-sensitive HDI ranking and vice versa for countries with very low emissions. This would erroneously suggest that the achieved human development of these countries is lower than the original HDI indicated. However, this is not the case. Instead, very high per capita carbon dioxide emissions merely signal that the high human development of these countries is bought at the expense of carbon dioxide emissions that would be unsustainable on a global scale as it would cause drastic climate change. Never mind that this is no new information, but something we knew all the time. More importantly, given that this is the true information content, the HDI itself should be unaffected since human development is unaffected. Again, as with the case of the ISEW/GPI and Osberg and Sharpe's (2002a, 2002b) Index of Economic Well-Being, the conflation of factors relevant for current well-being with those of sustainability leads to a flawed overall indicator that can no longer measure correctly either current well-being or sustainability. Ramanathan's (1999) proposal encounters the very same critique.

Dahme *et al.*'s (1998) proposal is very removed from actual environmental damage. From an environmental point of view, two forms of material flows with differing environmental damage impacts cannot be added together just because one can express both in weight terms. Without further analysis of what the material flows consist of and what are its environmental implications, it is pointless to simply rank countries according to the size of their material flows (for a more detailed critique of material flows as a measure of sustainability, see Neumayer (2003, 2004)).

More fundamentally, neither of these proposals directly addresses the sustainability problem. A ranking of countries according to environmental factors or material flows does not tell us anything about their sustainability, not even if we focus on environmental sustainability only. Sagar and Najam's (1996) proposal is also too simplistic. There does not exist a threshold of income, after which further income increases are unsustainable due to 'excessive consumption'. Without further knowledge about the environmental impact of the consumption level, one cannot infer whether it is sustainable or not. Also, none of the proposals discussed so far deals seriously with resource depletion, even though resource depletion forms an important component of the depreciation of the natural capital stock.

4. An alternative proposal: assessing the sustainability of well-being with Genuine Savings

As an alternative to fully integrated indicators of sustainability and well-being and as an alternative to the suggested extensions to the HDI discussed in the last section, Neumayer (2000a) has pro-

posed to combine the HDI with a measurement of sustainability that can signal if the achieved level of human development can be maintained into the future. The measurement of sustainability is that of so-called Genuine Savings (GS), which measures the total investment in all forms of capital minus the total depreciation of all forms of capital. In simple terms, if GS is negative, then the value of the total capital stock available to future generations is smaller than the one available to the current generation—a clear indication of unsustainability (Pezzey and Toman 2002). Hence, Neumayer (2000a) proposes to qualify a country's HDI as unsustainable if the country's GS rate is below zero. Note, however, that the proposal can in principle be applied to any indicator of well-being, not just the HDI.

Genuine Savings has been pioneered by Hamilton (1994, 1996) with the World Bank's Environment Department. The World Bank publishes GS data in its annual statistical compendium *World Development Indicators* under the name 'adjusted savings'.¹³⁹ Within its GS computations, the World Bank takes depletion of the following natural resources into account in computing natural capital stock depreciation: oil, natural gas, hard coal, brown coal, bauxite, copper, iron, lead, nickel, zinc, phosphate, tin, gold, silver, and forests. As can be seen, the measure is strong on non-renewable resources since for these marketed resources the necessary data for valuation are not too difficult to get hold of. The harvesting of forests is the only renewable resource taken into account so far, others such as water depletion, fish catch, biodiversity loss, soil erosion and the like encounter formidable data problems. The same is true for environmental pollution, for which carbon dioxide is currently the only pollutant included.

The World Bank counts current education expenditures as a proxy for investment into human capital. This is certainly rather crude, but it is difficult to see how investment in human capital could be estimated otherwise for so many countries over such a long time horizon.¹⁴⁰ Dasgupta (2001b: C9f.) argues that it is an overestimate since human capital is lost when people die. Against this one might object that part of the human capital might have been passed on so that the human capital is not really lost once individuals die or, to be precise, leave the workforce. In any case, such correction would be difficult to undertake.

Table 1 lists the HDI of countries in five-year steps from 1975 to 2000 and qualifies the achieved level of human development as potentially unsustainable if the country's GS was negative in or around that year. Note that for a number of technical reasons the qualification is one of *potential* unsustainability rather than outright unsustainability. First, given the sometimes shaky quality of the data one must be cautious about making strong assertions. Second, the World Bank counts the full value of resource depletion as natural capital depreciation ($[\text{price} - \text{average cost}] \times \text{quantity of resource extracted or harvested}$). As argued in detail in Neumayer (2000a, 2003) the World Bank's computation of the full value of natural resource extraction might overestimate natural capital depreciation. What has become known as the El Serafy method (El Serafy 1981, 1989) corrects this upward bias, but it requires information about reserve stocks, which are not available for many countries for many resources for many years. Our computations therefore by necessity apply the World Bank method.

¹³⁹ Like Dasgupta (2001a, 2001b) I prefer the term genuine investment as investment is really what GS refers to. However, Genuine Savings has now become the established nomenclature.

¹⁴⁰ Note that in the traditional national accounts capital expenditures on education are already counted towards investment in man-made capital.

Table 1. HDI with Genuine Savings qualification

Rank	Country	1975	1980	1985	1990	1995	2000
<i>High human development</i>							
1	Norway	0.859	0.877	0.888	0.901	0.925	0.942
2	Sweden	0.863	0.872	0.883	0.894	0.925	0.941
3	Canada	0.868	0.883	0.906	0.926	0.932	0.940
4	Belgium	0.844	0.861	0.875	0.896	0.927	0.939
5	Australia	0.844	0.861	0.873	0.888	0.927	0.939
6	United States	0.863	0.884	0.898	0.914	0.925	0.939
7	Iceland	0.863	0.885	0.894	0.913	0.918	0.936
8	Netherlands	0.861	0.873	0.888	0.902	0.922	0.935
9	Japan	0.854	0.878	0.893	0.909	0.923	0.933
10	Finland	0.836	0.856	0.873	0.896	0.908	0.930
11	Switzerland	0.874	0.886	0.892	0.905	0.914	0.928
12	France	0.848	0.863	0.875	0.897	0.914	0.928
13	United Kingdom	0.841	0.848	0.858	0.878	0.916	0.928
14	Denmark	0.868	0.876	0.883	0.891	0.907	0.926
15	Austria	0.840	0.854	0.867	0.890	0.909	0.926
16	Luxembourg	0.831	0.846	0.860	0.884	0.912	0.925
17	Germany	n.a.	0.859	0.868	0.885	0.907	0.925
18	Ireland	0.818	0.831	0.846	0.870	0.894	0.925
19	New Zealand	0.849	0.855	0.866	0.875	0.902	0.917
20	Italy	0.828	0.846	0.856	0.879	0.897	0.913
21	Spain	0.819	0.838	0.855	0.876	0.895	0.913
22	Israel	0.790	0.814	0.836	0.855	0.877	0.896
23	Hong Kong, China (SAR)	0.756	0.795	0.823	0.859	0.877	0.888
24	Greece	0.808	0.829	0.845	0.859	0.868	0.885
25	Singapore	0.722	0.755	0.782	0.818	0.857	0.885
26	Cyprus	n.a.	0.801	0.821	0.845	0.866	0.883
27	Korea, Rep. of	0.691	0.732	0.774	0.815	0.852	0.882
28	Portugal	0.737	0.760	0.787	0.819	0.855	0.880
29	Slovenia	n.a.	n.a.	n.a.	0.845	0.852	0.879
30	Malta	0.731	0.766	0.793	0.826	0.850	0.875
31	Barbados	n.a.	n.a.	n.a.	n.a.	n.a.	0.871
32	Brunei Darussalam	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
33	Czech Republic	n.a.	n.a.	n.a.	n.a.	0.843	0.849
34	Argentina	0.785	0.799	0.805	0.808	0.830	0.844
35	Hungary	0.777	0.793	0.805	0.804	0.809	0.835
36	Slovakia	n.a.	n.a.	0.813	0.820	0.817	0.835
37	Poland	n.a.	n.a.	n.a.	0.792	0.808	0.833
38	Chile	0.702	0.737	0.754	0.782	0.811	0.831
39	Bahrain	n.a.	n.a.	n.a.	n.a.	n.a.	0.831
40	Uruguay	0.757	0.777	0.781	0.801	0.815	0.831
41	Bahamas	n.a.	0.805	0.817	n.a.	n.a.	n.a.

42	Estonia	n.a.	n.a.	n.a.	n.a.	n.a.	0.826
43	Costa Rica	0.745	0.769	0.770	0.787	0.805	0.820
44	Saint Kitts and Nevis	n.a.	n.a.	n.a.	n.a.	n.a.	0.814
45	Kuwait	0.753	0.773	0.777	n.a.	0.812	0.813
46	United Arab Emirates	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
47	Seychelles	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
48	Croatia	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
49	Lithuania	n.a.	n.a.	n.a.	0.816	0.781	0.808
50	Trinidad and Tobago	0.722	0.755	0.774	0.781	0.787	0.805
51	Qatar	n.a.	n.a.	n.a.	n.a.	n.a.	0.803
52	Antigua and Barbuda	n.a.	n.a.	n.a.	n.a.	n.a.	0.800
53	Latvia	n.a.	n.a.	n.a.	0.804	0.763	0.800

Medium human development

54	Mexico	n.a.	0.734	0.752	0.761	0.774	0.796
55	Cuba	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
56	Belarus	n.a.	n.a.	n.a.	0.809	0.776	0.788
57	Panama	n.a.	0.731	0.745	0.747	0.770	0.787
58	Belize	n.a.	0.710	0.718	0.750	0.772	0.784
59	Malaysia	0.616	0.659	0.693	0.722	0.760	0.782
60	Russian Federation	n.a.	n.a.	n.a.	n.a.	0.779	0.781
61	Dominica	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
62	Bulgaria	n.a.	0.763	0.784	0.786	0.778	0.779
63	Romania	n.a.	n.a.	n.a.	0.777	0.772	0.775
64	Libyan Arab Jamahiriya	n.a.	n.a.	n.a.	n.a.	n.a.	0.773
65	Macedonia, TFYR	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
66	Saint Lucia	n.a.	n.a.	n.a.	n.a.	n.a.	0.772
67	Mauritius	0.630	0.656	0.686	0.723	0.746	0.772
68	Colombia	0.660	0.690	0.704	0.724	0.750	0.772
69	Venezuela	0.716	0.731	0.738	0.757	0.766	0.770
70	Thailand	0.604	0.645	0.676	0.713	0.749	0.762
71	Saudi Arabia	0.587	0.646	0.670	0.706	0.737	0.759
72	Fiji	0.660	0.683	0.697	0.723	0.743	0.758
73	Brazil	0.644	0.679	0.692	0.713	0.737	0.757
74	Suriname	n.a.	n.a.	n.a.	n.a.	n.a.	0.756
75	Lebanon	n.a.	n.a.	n.a.	0.680	0.730	0.755
76	Armenia	n.a.	n.a.	n.a.	n.a.	n.a.	0.754
77	Philippines	n.a.	0.684	0.688	0.716	0.733	0.754
78	Oman	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
79	Kazakhstan	n.a.	n.a.	n.a.	n.a.	n.a.	0.750
80	Ukraine	n.a.	n.a.	n.a.	n.a.	n.a.	0.748
81	Georgia	n.a.	n.a.	n.a.	n.a.	n.a.	0.748
82	Peru	n.a.	0.669	0.692	0.704	0.730	0.747
83	Grenada	n.a.	n.a.	n.a.	n.a.	n.a.	0.747
84	Maldives	n.a.	n.a.	n.a.	n.a.	0.707	0.743

85	Turkey	0.593	0.617	0.654	0.686	0.717	0.742
86	Jamaica	0.687	0.690	0.692	0.720	0.736	0.742
87	Turkmenistan	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
88	Azerbaijan	n.a.	n.a.	n.a.	n.a.	n.a.	0.741
89	Sri Lanka	0.616	0.650	0.676	0.697	0.719	0.741
90	Paraguay	0.665	0.699	0.705	0.717	0.735	0.740
91	Saint Vincent and the Grenadines	n.a.	n.a.	n.a.	n.a.	n.a.	0.733
92	Albania	n.a.	n.a.	n.a.	n.a.	0.702	0.733
93	Ecuador	n.a.	0.673	0.694	0.705	0.719	0.732
94	Dominican Republic	0.617	0.646	0.667	0.677	0.698	0.727
95	Uzbekistan	n.a.	n.a.	n.a.	n.a.	0.714	0.727
96	China	n.a.	n.a.	0.591	0.625	0.681	0.726
97	Tunisia	0.514	0.566	0.613	0.646	0.682	0.722
98	Iran, Islamic Rep. of	0.556	0.563	0.607	0.645	0.688	0.721
99	Jordan	n.a.	0.636	0.658	0.677	0.703	0.717
100	Cape Verde	n.a.	n.a.	0.587	0.626	0.678	0.715
101	Samoa (Western)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
102	Kyrgyzstan	n.a.	n.a.	n.a.	n.a.	n.a.	0.712
103	Guyana	n.a.	0.679	0.671	n.a.	0.703	n.a.
104	El Salvador	0.586	0.586	0.606	0.644	0.682	0.706
105	Moldova, Rep. of	n.a.	0.720	0.741	0.759	0.704	0.701
106	Algeria	n.a.	0.550	0.600	0.639	n.a.	n.a.
107	South Africa	n.a.	0.663	0.683	0.714	0.724	0.695
108	Syrian Arab Republic	0.538	0.580	0.614	0.634	0.665	0.691
109	Viet Nam	n.a.	n.a.	n.a.	0.605	0.649	0.688
110	Indonesia	n.a.	n.a.	0.582	0.623	0.664	0.684
111	Equatorial Guinea	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
112	Tajikistan	n.a.	n.a.	n.a.	n.a.	0.669	0.667
113	Mongolia	n.a.	n.a.	0.650	0.657	0.636	0.655
114	Bolivia	n.a.	0.548	0.573	0.597	0.630	0.653
115	Egypt	0.435	0.482	0.532	0.574	0.605	0.642
116	Honduras	0.518	0.566	0.597	0.615	0.628	0.638
117	Gabon	n.a.	n.a.	n.a.	n.a.	n.a.	0.637
118	Nicaragua	n.a.	0.576	0.584	0.592	0.615	0.635
119	Sao Tome and Principe	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
120	Guatemala	0.506	0.543	0.555	0.579	0.609	0.631
121	Solomon Islands	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
122	Namibia	n.a.	n.a.	n.a.	n.a.	n.a.	0.610
123	Morocco	0.429	0.474	0.508	0.540	0.569	0.602
124	India	0.407	0.434	0.473	0.511	0.545	0.577
125	Swaziland	0.512	0.543	0.569	0.615	0.620	0.577
126	Botswana	0.494	0.556	0.613	0.653	0.620	0.572
127	Myanmar	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
128	Zimbabwe	n.a.	0.572	0.621	0.597	0.563	n.a.

129	Ghana	0.438	0.468	0.481	0.506	0.525	0.548
130	Cambodia	n.a.	n.a.	n.a.	n.a.	0.531	0.543
131	Vanuatu	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
132	Lesotho	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
133	Papua New Guinea	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
134	Kenya	0.443	0.489	0.512	0.533	0.523	0.513
135	Cameroon	0.410	0.455	0.505	0.513	0.499	0.512
136	Congo	0.417	0.467	0.517	0.510	0.511	n.a.
137	Comoros	n.a.	0.480	0.498	0.502	0.506	n.a.

Low human development

138	Pakistan	0.345	0.372	0.404	0.442	0.473	0.499
139	Sudan	0.346	0.374	n.a.	n.a.	0.462	0.499
140	Bhutan	n.a.	n.a.	n.a.	n.a.	n.a.	0.494
141	Togo	0.394	0.443	0.440	0.465	0.476	0.493
142	Nepal	0.289	0.328	0.370	0.416	0.453	0.490
143	Lao People's Dem. Rep.	n.a.	n.a.	n.a.	n.a.	n.a.	0.485
144	Yemen	n.a.	n.a.	n.a.	0.399	0.439	0.479
145	Bangladesh	0.335	0.353	0.386	0.416	0.445	0.478
146	Haiti	n.a.	0.430	0.445	0.447	0.457	0.471
147	Madagascar	0.399	0.433	0.427	0.434	0.441	0.469
148	Nigeria	0.328	0.388	0.403	0.425	0.448	0.462
149	Djibouti	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
150	Uganda	n.a.	n.a.	0.386	0.388	0.404	0.444
151	Tanzania, U. Rep. of	n.a.	n.a.	n.a.	0.422	0.427	0.440
152	Mauritania	0.337	0.360	0.379	0.390	0.418	0.438
153	Zambia	n.a.	0.463	0.480	0.468	n.a.	n.a.
154	Senegal	0.313	0.330	0.356	0.380	0.400	0.431
155	Congo, Dem. Rep. of the	n.a.	n.a.	n.a.	n.a.	n.a.	0.431
156	Côte d'Ivoire	0.369	0.403	0.412	0.415	0.416	0.428
157	Eritrea	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
158	Benin	0.288	0.324	0.350	0.358	0.388	0.420
159	Guinea	n.a.	n.a.	n.a.	n.a.	n.a.	0.414
160	Gambia	0.272	n.a.	n.a.	n.a.	0.375	0.405
161	Angola	n.a.	n.a.	n.a.	n.a.	n.a.	0.403
162	Rwanda	0.336	0.380	0.396	0.346	0.335	0.403
163	Malawi	0.316	0.341	0.354	0.362	0.403	0.400
164	Mali	0.252	0.279	0.292	0.312	0.346	0.386
165	Central African Republic	n.a.	0.351	0.371	0.372	0.369	0.375
166	Chad	n.a.	n.a.	0.298	0.322	0.335	0.365
167	Guinea-Bissau	n.a.	n.a.	0.283	0.304	0.331	0.349
168	Ethiopia	n.a.	n.a.	0.275	0.297	0.308	0.327
169	Burkina Faso	0.232	0.259	0.282	0.290	0.300	0.325
170	Mozambique	n.a.	0.302	0.290	0.310	0.313	0.322
171	Burundi	n.a.	n.a.	0.338	0.344	0.316	0.313

172	Niger	0.234	0.254	0.246	0.256	0.262	0.277
173	Sierra Leone	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

Note: Numbers in bold represent negative GS rates. n.a. means that either the HDI or GS is not available. **Source:** UNDP (2002) and World Bank (2002).

Table 1 shows that most countries with high human development are not detected as weakly unsustainable. This is because investments into human and man-made capital far outweigh depreciation of capital. It is only such countries as Kuwait and Trinidad and Tobago with a strong dependence on natural resource extraction, which have negative GS rates. Most countries whose human development achievement needs to be qualified due to negative GS rates are those with low human development or in the lower part of medium human development. Another observation following from Table 1 is that unsustainability is persistent in the sense that often countries with negative GS in one year have similarly negative rates in other years as well. Unsustainability is not inescapable, however, as such examples as Chile and Jamaica show, which started off with negative GS, but turned these into positive rates in the 1990s. In the case of Sub-Saharan Africa, from which many countries with signs of unsustainability come from, a more detailed analysis shows that even their net savings, that is before natural capital depreciation, is often already negative such that their economies are on a weakly unsustainable path quite independently of depreciation due to natural resource exploitation (Neumayer 2004).

One of the problems of the existing published GS data is that it does not take into account population growth. One might think that this is easy to achieve in looking at GS per capita instead of GS. However, the correct accounting for population growth depends on whether population growth is assumed to be exponential and whether social welfare only depends on per capita utility or also on population size (see Hamilton 2002, Asheim 2002, Arrow, Dasgupta, and Mäler 2003). If one were to take GS per capita as a first approximation, then many more developing countries with fast growing populations would run into problems with weak sustainability. Dasgupta (2001a: 158) computes that Bangladesh, India, Nepal, Pakistan and the Sub-Saharan African region as a whole have all had net *per capita* depreciation of their total capital stock over the period 1970 to 1993. China, the only other country looked at by Dasgupta, has just so escaped this fate. Note, however, that technological progress is a force in the opposite direction. If it is at least partly exogenous in the sense that it is not fully captured by total capital (Weitzman 1997), then even negative GS rates at any moment of time need not imply weak unsustainability. The same is true for what Dasgupta (2001a: 149) calls ‘costless accumulation of public knowledge’. We cannot resolve these difficult issues and simply take existing published GS data as a first approximation.

What are the policy implications of our analysis? Countries with negative GS rates need to invest more and consume less to achieve sustainability. There is a fundamental problem with this policy implication, however. We saw already that developing countries with low and lower medium human development form the majority of countries with unsustainable human development. To demand from these poor countries to save more and consume less is likely to impose the burden of sustainability achievement on the shoulders of poor, powerless and vulnerable people. This, however, would contradict the universalist foundation of sustainability, as Anand and Sen (2000:2030) make clear: universalism also requires that in our anxiety to protect the future generations, we must not

overlook the pressing claims of the less privileged today. A universalist approach cannot ignore the deprived people today in trying to prevent deprivation in the future.

Without help from the intra-generationally rich (i.e. the developed countries), these countries will not only be unable to improve their welfare, but they also risk losing the little welfare they have since even this low level is unsustainable. Such help in the form of aid, trade or investment can be justified partly with recourse to the fact that development in rich countries has partly been achieved via imposing a negative externality in the form of greenhouse gas emissions, the costs of which are mainly borne by future developing countries (Neumayer 2000b).

5. Conclusion

We have argued that besides methodological flaws that are specific to the ISEW/GPI, fully integrated indicators of well-being and sustainability encounter a fundamental conceptual problem: What affects current well-being need not affect sustainability at all or not in the same way, and vice versa. Fully integrated indicators therefore tend to conflate the measurement of two items that should be kept conceptually different. Whereas well-being refers to the current use of the available capital stock in terms of preference satisfaction, sustainability refers to sustaining the value of the total capital stock for the future. The inclusion of sustainability in a measure of current well-being can be justified if one assumes that the current generation's welfare fully takes the welfare of future generations into account. However, no similar justification exists for a measure of sustainability, which should be free of items that affect only current well-being as future generations cannot care for current welfare.

As we have seen, even some proposals combining the measurement of well-being with that of sustainability without full integration at times fall into this trap. We have therefore developed a proposal, which combines the measurement of well-being with that of sustainability that avoids the trap. Well-being is measured in the conventional way, but the sustainability of the achieved level of well-being is checked with a GS test. Where GS is below zero, there is a danger that the achieved level of well-being is bought at the expense of liquidating the total capital available to a country, which cannot be sustainable. We have illustrated our proposal with reference to the HDI, but hasten to add that it is a general proposal in that the GS test can be added to any indicator of well-being.

Of course, our proposal to combine the HDI with a sustainability check according to the GS rule is not without its problems and limitations either. Currently, GS is not computed for all countries for which UNDP calculates a HDI, but using GS as a sustainability qualification only makes sense if it is available for all relevant countries. Coverage is also a problem with respect to the extent to which natural capital is fully taken into account. Ideally more renewable resource depletion such as water, soil and fish should be included. The same goes for pollutants such as sulphur and nitrogen dioxides, particulate matter, volatile organic compounds and many more. That developed countries are not regarded as unsustainable according to GS is partly due to their high investment into manufactured and human capital. However, if more pollutants could be taken into account their sustainability position would no longer be as favourable as it currently is. This is because as UNDP (1998: 66) correctly points out: 'It is the rich who pollute more ... who generate more waste and put more stress on nature's sink'. Of course, it is doubtful whether we will ever have such data available

for all countries. However, for the developed countries better and more comprehensive data exist and there is no reason why a more comprehensive GS measure could not be estimated for this group of countries.

The main reason why developed countries are not detected as unsustainable by GS has to do with the concept of sustainability underlying the measure, however. This concept is one of weak sustainability, which, as pointed out in the introduction, assumes substitutability of natural capital through other forms of capital. The competing concept of strong sustainability rejects such substitutability. It requires to keep pollution within the absorptive capacity of nature and to replace depleted non-renewable resources with a functionally equivalent stock of renewable resources or non-depletable resources (such as solar and wind energy) (Neumayer 2003). Why not combine the HDI with a measure of strong sustainability then? The reason is that there are likely to be very few, if any, countries that achieve strong sustainability. Most developed countries emit more greenhouse gases than the atmosphere can cope with. Those developing countries that do not exceed the natural absorptive capacity of the global atmosphere with their greenhouse gas emissions still often deplete their non-renewable resource stock without adequate replacement investments into renewable or non-depletable resources or degrade their local environment. The information content of such a measure would therefore be minimal. The lesson is to take GS as a first step into the right direction. A country, which is not weakly sustainable cannot be strongly sustainable either and since there are so many poor weakly unsustainable countries in the developing world, making them weakly sustainable is what we should concentrate on.

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