

The

**Drew
Review**

**The College of
Liberal Arts**

Drew University

**April 2014
Volume 7**

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Drew University

Volume 7

April 2014

The Drew Review is the annual research journal for the undergraduates of the Drew University College of Liberal Arts, publishing undergraduate research from the previous calendar year. Our mission is to showcase the intellectual vibrancy of the students of the CLA.

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**SOLITUDE, SPINSTERHOOD, AND SINGLE BLESSEDNESS:
CHARLOTTE BRONTË AND REDUNDANT WOMEN IN
NINETEENTH-CENTURY PROTESTANT ENGLAND**

MARIEL CAPUTO (CLA 2014)

The work of Charlotte Brontë is the most iconic depiction of female solitude found in the British literary canon. Her heroines embody a paradoxical notion of solitude that is both a powerful source of anguish and an essential component of a radical freedom. Through the creation of her solitary heroines, Brontë grapples with the condition of the growing population of unmarried women dubbed “redundant” by nineteenth-century English society. Although the redundancy problem was of personal relevance to her, her novels do not propose a solution to the difficulties faced by their unmarried female protagonists. Even in her personal writing Brontë does not pretend to know the answer for redundant women. She wrote in May 1848, during the composition of *Shirley*, “I often wish to say something about the ‘condition of women’ question—but it is one respecting which so much ‘cant’ has been talked, that one feels a sort of repugnance to approach it [...] When a woman has a little family to rear and educate and a household to conduct, her hands are full, her vocation is evident—when her destiny isolates her—I suppose she must do what she can—live as she can—complain as little—bear as much—work as well as possible” (Brontë 2000, 66). Brontë’s female protagonists exemplify this type of “isolated destiny.” Their tendency to cling to isolation, rather than transform their solitary lives, is what makes their stories so memorable. In her novels *Shirley* (1849) and *Villette* (1853), Brontë explores and evaluates the possible solutions to the redundant women problem offered by the various political, social, and especially, religious ideologies of her time; and despite the struggles that solitary unmarried women face, she ultimately favors female independence to dependence, and solitude to companionship.

Brontë wrote her major novels when anxieties about the number of unmarried women in England were rapidly escalating. The 1851 national census, which assigned statistics to previously vague fears about the surplus of women to men, was issued just two years after the publication of *Shirley* and two years before *Villette*. The census was Great Britain’s first to include marital status, and revealed that in a total population of 20 million, women

exceeded men by half a million, and 2.5 million women were unmarried (Levitan 2008, 363). These unmarried women, referred to as “redundant” and “superfluous,” were seen as a threat to all that distinguished England as a great nation. In “Redundancy, the ‘Surplus Woman’ Problem, and the British Census, 1851-1861,” Historian Kathrin Levitan writes that “the census sparked concern about the decline of the family as the [nation’s] moral and reproductive basis [...]. At a moment when a large population had come to be seen as crucial for maintaining Britain’s imperial and military strength, women’s duties as wives and mothers were increasingly exalted, and women who did not fulfill these roles were viewed as especially problematic” (Levitan 2008, 363). Most agreed that the redundant population was a problem. Mary Taylor, early feminist and friend of Charlotte Brontë, sums up the urgency of the situation: “the phrase redundant women really means starving women” (Murray 1982, 58). This was especially true of middle-class women, who were discouraged from labor and whose only hope of survival outside of marriage was to be taken in by charitable relatives.

The solution to the problem was where nineteenth-century thinkers diverged. Some argued that the answer was to provide the means through which women could financially support themselves. Others suggested that they emigrate from England to where they could more feasibly find husbands and fulfill the traditional role of wife and mother. The latter solution was made popular by political writer Sir William Rathbone Greg in his 1862 essay “Why Are Women Redundant?” Greg proposed that ten thousand voyages be arranged to transport the half a million “excess” women to Britain’s colonies and the United States. Greg believed that since male emigration to America and the colonies was largely responsible for the imbalance, it was only natural to relocate the women “from where they are redundant to where they are wanted” (Greg 15). However, as Jessie Boucherett argues in her 1869 essay “How to Provide for Superfluous Women,” Greg’s emigration plan was not a realistic solution. Sending women to the United States, for example, would merely exacerbate an already existing surplus of women on the east coast, due to the westward migration of men (Murray 1982, 55). Boucherett concludes that since “nobody wants them, either in the Old World or the New” (Murray 1982, 56), their only hope is to find employment in

England. By “converting them into useful members of society,” they will cease to be redundant (56).

Greg’s essay was followed by numerous other responses by female social activists who campaigned for increased education and occupational opportunities for women. The census was, in Kathrin Levitan’s words, “a catalyst for British feminism,” and this discussion “a vital moment in the history of women’s changing roles” (Levitan 2008, 360). Feminist reformers such as Bessie Rayner Parkes worked against the thinking that labor was indecorous for middle-class women. In her 1860 essay, “What Can Educated Women Do?”, she questions why domestic labor, “which is deemed to make a woman eligible as a wife to a working man, should, when exercised on higher subjects, unfit and discredit her to be the wife of a working barrister or medical man” (Bodichon and Lacey 1986, 169). According to Parkes, “the idea that a young lady cannot engage in business without losing caste must be conquered if any real way is to be made” (Bodichon and Lacey 1986, 164). For Frances Power Cobbe, in her 1862 essay “What Shall We Do with Our Old Maids?”, the most insulting aspect of Greg’s “enormous schemes for the deportation of 440,000 females” was that it constituted essentially forced marriage (Bodichon and Lacey 1986, 355). Cobbe denounces all marriages “for wealth, for position, for rank, [or] for support” as “the sources of misery and sin, not of happiness and virtue” (Bodichon and Lacey 1986, 356). This assertion challenged the traditional idea that marriage was the highest moral achievement a woman could attain. Yet, for middle-class women discouraged from labor, marriage was the only feasible means of survival. Jessie Boucherett sums up the limited options for such women: “marry or starve, sink or swim” (Murray 1982, 57). Nevertheless, Cobbe insists that an unmarried woman is, contrary to Greg’s opinion, better off struggling to support herself than in a loveless marriage.

At the heart of the discussion of redundancy were the larger philosophical questions of woman’s purpose and the possibility of her autonomy and selfhood. According to Greg, “the essentials of a woman’s being” are that “they are supported by, and they minister to men” (26). Cobbe, on the other hand, argues that women be in control of their own lives, and look to nobody else to determine their identity. She writes, “It is desirable that

women should have other aims, pursuits, and interests in life beside matrimony, and that by possessing them they are guaranteed against being driven into unloving marriages, and rendered more fitted for loving ones; while their single life, whether in maidenhood or widowhood, is made useful and happy” (Bodichon and Lacey, 361). According to Cobbe, the discussion of women should not revolve around their relation to others: of equal or greater importance to their “usefulness” is that they be “happy.” In suggesting that the single woman *can* be a happy, complete self, Cobbe denies Greg’s definition of woman’s purpose.

The purpose question continued into the second half of the century, and was often intermingled with theological ideology. In nineteenth-century Protestant England, female identity was defined by a woman’s relation to both man and God. Therefore, discourse on the redundant woman problem was intertwined with religious thought. The tension between Protestantism and Catholicism during Brontë’s time was critical to her own interpretation of the purpose question, as each assigned different roles to women, held them to different standards, and had its own distinctive solution to the redundant women problem. As the daughter of a clergyman, Brontë was particularly well versed in religious discourse, and her work comprises continual comparison and contrast between Protestant and Catholic roles for women. In *Shirley*, the question of a woman’s purpose is particularly troubling for single women living in a time when economic depression made it virtually impossible for a man to support a wife. The question became not just “what is woman’s purpose?”, but “what is the perpetually single woman’s purpose?” The Protestant answer to the purpose question is nicely framed by *Shirley*’s protagonist Caroline Helstone, when she realizes that since Robert Moore, the object of her affection, cannot afford to marry her, she is destined to join the population of redundant women:

What am I to do to fill the interval of time which spreads between me and the grave? [...] Till lately I had reckoned securely on the duties and affections of wife and mother to occupy my existence. I considered, somehow, as a matter of course, that I was growing up to the ordinary destiny, and never troubled myself to seek any other; but now, I perceive plainly, I may have been mistaken. Probably I shall be an old maid [...] I shall never marry. What was I

created for, I wonder? Where is my place in the world?
(Brontë 2008, 149)

What begins as Caroline's speculation about her own value becomes musing on the broader issue of redundancy. That she will be an old maid, she realizes, means that she will become part of a population with no functional value in society. She identifies her own purpose question as "the question which most old maids are puzzled to solve," and reflects that "other people solve it for them by saying, 'Your place is to do good to others, to be helpful whenever help is wanted'" (Brontë 2008, 149). As the niece and dependent of an Anglican clergyman, Caroline is well aware of this moral obligation of women who fail to fulfill their "natural" role: those who cannot marry must validate their existence by ministering to others.

This Protestant answer to redundancy—"to do good to others, to be helpful whenever help is wanted"—accounts for the popularity of the charitable spinster archetype among 18th- and 19th-century writers, and in the works of authors such as Jane Austen and Elizabeth Gaskell. This archetype is nearly always mocked, pitied, or villainized, and its narrative function is often little more than a comic diversion from the central plot. Brontë, however, refrains from such use of the spinster. In *Shirley* we are told that the spinster Miss Ainley is mocked by "gentlemen [...] who declared her hideous", and that Robert Moore "amused himself with comparing fair youth" to "the vinegar discourse of a cankered old maid" (Brontë 2008, 156; 152). Although the characters may find spinsterhood to be amusing, the narrative voice itself treats Miss Ainley with only the utmost respect:

Sincerity is never ludicrous; it is always respectable. Whether truth—be it religious or moral truth—speak eloquently and in well-chosen language or not, its voice should be heard with reverence. Let those who cannot nicely, and with certainty, discern the difference between the tones of hypocrisy and those of sincerity, never presume to laugh in the wrong place, and commit impiety when they think they are achieving wit. (Brontë 2008, 156)

The character of Miss Ainley functions not as a comic element in the novel, but as a standard of genuine piety and philanthropy.

Brontë's attraction to sincerity is inseparable from her dislike of hypocrisy, especially religious hypocrisy. In contrast with

Miss Ainley's sincerity, we find women whose charity work is done out of obligation imposed upon them by male religious leaders. Such busywork was often assigned to women, particularly unmarried women, who might otherwise feel useless. In *Shirley*, we are told that the "Jew-basket," purposed for "the conversion of the Jews," comprised contributions made by "the willing or reluctant hands of the Christian ladies of a parish" (Brontë 2008, 96). The Protestant answer for unmarried women is, as Caroline says, "a very convenient doctrine for the people who hold it", as well as a means of placating women who wish to be useful (Brontë 2008, 149). Although the emphasis on ritual and good works was traditionally one of the greatest criticisms of Catholicism, in *Shirley*, Charlotte utilizes the charitable works solution to depict hypocrisy among Protestants. What Brontë satirizes is not the idea of charity itself, nor is it the charitable spinster archetype: it is the role of obligation and insincere motives in charity work.

In *Villette* and *Shirley*, as well as *Jane Eyre*, Brontë is continually juxtaposing the Protestant charitable works idea with the Catholic solution for redundancy. In her article "Emigrant Spinsters and the Construction of Englishness in Charlotte Brontë's *Villette*," Anne Longmuir argues that "this religious difference has crucial implications for the spinster, because while Protestant England had no obvious role for single women, Catholicism did: convent life. Furthermore, the convent and the figure of the nun haunt mid-nineteenth-century discussions of the spinster" (Longmuir 2008, par. 14). The Catholic solution to redundancy is particularly palpable in *Villette*, in which the heroine, Lucy Snowe, is haunted by a spectral nun. Lucy lives her life with the constant reminder of this alternative lifestyle, reflecting, "I might just now, instead of writing this heretic narrative, be counting my beads in the cell of a certain Carmelite convent on the Boulevard of Crécy in Villette" (Brontë 1985, 235). Lucy's continual contrasting of England's Protestantism with the Catholicism of Villette allows her to track the implications of each for unmarried women; and their differences are integral to her fluctuating attitude toward her own celibacy.

Brontë's use of the nun figure in *Shirley* functions less as a formidable reminder of the Catholic answer, than as a way to explore similarities between Catholic and Protestant roles for

unmarried women. The Catholic solution appears more subtly in *Shirley*, where Shirley and Caroline picnic at Nunwood, Caroline's "muslin dress was fashioned modestly as a nun's robe", and Shirley nearly becomes Mrs. Philip Nunnely (Brontë 2008, 258). Caroline is unsettled by the prospect of living entirely for others, as suggested by the Protestant solution, and likens it to the Catholic virtue of self-denial:

Is this enough? Is it to live? Is there not a terrible hollowness, mockery, want, craving, in that existence which is given away to others, for want of something of your own to bestow it on? I suspect there is. Does virtue lie in abnegation of self? I do not believe it. Undue humility makes tyranny; weak concession creates selfishness. The Romish religion especially teaches renunciation of the self, submission to others, and nowhere are found so many grasping tyrants as in the ranks of the Romish priesthood. (Brontë 2008, 149)

In this moment Caroline both desires moderation of religious expression and comes to terms with the similarities between the Protestant and Catholic roles for women. Meanwhile, the Protestant reader must face the startling realization that Protestantism and the Catholic Church treat women similarly: both, whether formally or informally, require servitude to others and denial of personal interests.

In *Villette*, Brontë's preference for moderation of religious expression is evident from the striking contrast between the painfully devoted Polly Home and the fleshly coquette Ginevra Fanshawe. Both become objects of Brontë's satire because each represents an extreme which neither she nor Lucy Snowe can fully embrace. Lucy witnesses Polly "kneeling upright in bed, and praying like some Catholic or Methodist enthusiast—some precocious fanatic or untimely saint" (Brontë 1985, 69). Just as Caroline associates the Protestant charitable works answer with "the Romish religion," so does Lucy find Polly's fanatical Protestantism to be equivalent to Catholicism (Brontë 1985, 149). Polly takes female subservience to such an extreme that her ritualistic servitude of men resembles Catholic self-denial. Little Polly's dotting on her father, as well as her eventual obsession with John Graham Bretton, borders on idolatry and is uncomfortable to witness. Her "saintly" nature is enhanced once her father arrives at Bretton, and she is able to worship him in the flesh. This

obsession manifests in her handkerchief project, in which self-inflicted physical pain is essential to her display of devotion:

Opposite where he had placed himself was seated Mr. Home, and at his elbow, the child. When I say *child* I use an inappropriate and undescriptive term—a term suggesting any picture rather than that of the demure little person in a mourning frock and white chemisette, that might have just fitted a good-sized doll—perched now on a high chair beside a stand, whereon was her toy work-box of white varnished wood, and holding in her hands a shred of handkerchief, which she was professing to hem, and at which she bored perseveringly with a needle, that in her fingers seemed almost a skewer, pricking herself ever and anon, marking the cambric with a track of minute red dots; occasionally starting when the perverse weapon—swerving from her control—inflicted a deeper stab than usual; but still silent, diligent, absorbed, womanly (Brontë 1985, 73).

That Polly's toleration of pain is "womanly" implies that stoicism itself is inherent in womanhood. Brontë later juxtaposes Polly's "womanhood" with that of Ginevra Fanshawe, in whom Lucy observes a "fragile style of beauty, an entire incapacity to endure" (Brontë 1985, 118). In both cases, the ability to endure pain finds a reciprocal relationship with religious devotion. In Lucy's first interview on the boat with Ginevra, the schoolgirl expresses total apathy toward religious discourse: "they call me a Protestant, you know, but really I am not sure whether I am one or not: I don't well know the difference between Romanism and Protestantism. However, I don't in the least care for that" (Brontë 1985, 115). It is later that same night that the two become seasick, and Lucy witnesses Ginevra's "entire incapacity to endure." In Brontë's characterization of Ginevra, it is difficult to separate her religious apathy from her inability to tolerate discomfort. In this aspect of her character, she is the perfect foil to Polly.

Throughout *Villette*, Brontë employs language of self-denial, sacrifice, and martyrdom in depicting gender relations and woman's role. Polly finds her pain necessary in order for her to fulfill her duty to her father—completing his handkerchief. Because female identity was defined as subordination to and servitude of others, even at six years old, Polly has already learned that her father's comfort comes before her own. Mr. Home calls her "my

comfort,” and it is only natural—“womanly”— that women should minister to men at the cost of their own comfort (Brontë 1985, 72). This gender relationship is so “natural” that it is not until this moment that Graham finally notices Polly as “a young lady” (Brontë 1985, 73). The prevalence of religious diction and biblical allusions in Brontë’s work is more than the result of her upbringing. In working with the purpose question, she rightfully finds Christian motifs essential to portraying a society in which the role of woman is deeply imbricated in religious thought and practice.

Considering that Brontë wrote in a moment of acute tension between Protestantism and Catholicism, it is remarkable that her use of Catholicism in *Villette* does not follow suit with the anti-Papist fears that spawned gothic novels such as Matthew Gregory Lewis’s *The Monk* and Anne Radcliffe’s *The Italian*. In fact, as we can see from her representation of the clergy in *Shirley*, Protestantism is perhaps the greatest target of her satire. Even Lucy Snowe admits flaws in the Protestant faith. When comparing the three Protestant chapels of Villette—Presbyterian, Lutheran, and Episcopalian—she reflects, “I respected them all, though I thought that in each there were faults to form; encumbrances, and trivialities” (Brontë 1985, 513). Lucy’s explicit anti-Catholicism has led both Brontë’s contemporaries and modern scholars to the assumption that Brontë herself, like most of Protestant nineteenth-century England, held a harsh, dogmatic view of Catholicism. However, as Michael M. Clarke argues in “Charlotte Brontë’s *Villette*, Mid-Victorian Anti-Catholicism, and the Turn to Secularism,” Brontë’s view of Catholicism “was complicated by several factors, including her experience in Brussels during the years 1842-43, where she fell in love with the Catholic Constantine Heger, and where, during a period of extreme loneliness, she went to Confession in the Cathedral of Sainte-Gudule” (Clarke 2011, 972). Lucy Snowe’s similar encounter with the priest Père Silas occurs during an illness which ensues from a desperate loneliness, and Silas, a Catholic, is the only earthly source of comfort available to her. Clarke insists that “evidence of Brontë’s freedom from prejudice is that the love between Lucy and Paul Emanuel,” who is widely believed to be inspired by Heger, “is the only instance of a happy relationship between Catholic and Protestant in the literature of the period” (Clarke 2011, 968). Lucy and Paul’s progression from truce to

friendship, and to romantic love, is certainly worth considering as “evidence” that Brontë finds it possible for Protestantism and Catholicism to peacefully coexist. Paul eventually ceases his attempts to convert Lucy, saying, “I see we worship the same God, in the same spirit, through by different rites” (Brontë 1985, 474). Despite their doctrinal differences, Lucy is attracted to Paul’s “pure honor and his artless piety” (Brontë 1985, 474), concluding that “whatever Romanism may be, there are good Romanists” (Brontë 1985, 488). The peace between Protestant and Catholic in *Villette* is made possible only through the willingness to overlook their differences in light of pure sincerity of heart. Both denominations have flaws, and both can be practiced either with sincerity or hypocrisy. Therefore, Brontë’s juxtaposition of Protestantism and Catholicism is purposed not to elevate one over the other, but rather to compare, contrast, and dissect the implications of each with regard to their designated roles for women.

While it is tempting to read the novel’s themes of confinement and suppression of female desire as a critique of Catholicism, the most formidable source of restriction for Lucy Snowe is not the surveillance of Catholics Madame Beck and M. Paul, nor is it the formidable nun specter that haunts her: it is herself. Nicholas Armitage argues in his article “Melting Miss Snowe: Charlotte’s Message to the English Church,” that “Lucy’s identification of Catholicism with Sentimentalism appears to be mirrored by her own identification of Protestantism with Reason” (Armitage 2009, 209). Lucy’s fantasies and imagination are continually stifled by her “Reason,” who is “vindictive as a devil” and “envenomed as a step-mother” (Brontë 1985, 308). Her chilling apostrophes to her own reason are Lucy’s most distressing moments: “According to her [Reason], I was born only to work for a piece of bread, to await the pains of death, and steadily through all life to despond” (Brontë 1985, 307-308). Michel M. Clarke asserts that Lucy, as the novel’s “representative Protestant,” differs from a Catholic only in that she has “built renunciation into ordinary life” (Clarke 2011, 975; 997). Therefore, in *Villette*, “Protestantism and Catholicism resemble each other not only in that each is a form of social power, but also in that each places similar restrictions on female behavior” (Clarke 2011,997).

The idea that religion imposes limitations upon women is not uncommon, and is undeniable in the context of 19th-century Protestant England, where the culture adhered to the biblical doctrine of female subordination. However, religion in many respects enhanced the independence of unmarried women. A prime example of this is the leadership roles that women fulfilled in Protestant sisterhoods, which simultaneously helped to alleviate the redundant women problem and other “problem” populations such as the poor, the sick, and criminals. In *Independent Women: Work and Community for Single Women, 1850-1920*, Martha Vicinus affirms that sisterhoods and deaconesses’ houses proved “that women could lead women” and “offered important training in leadership and opportunities to exercise responsibility” (Vicinus 1985, 83). Vicinus insists that “a religious community empowered women, validating women’s work and values in a world that seemed materialistic, godless, and male” (Vicinus 1985, 83). The independence enjoyed by these single women was secured by their work in all-female organizations, where they obtained provision of their physical needs through a dominant, rather than subordinate social role.

Brontë would certainly not accept the idea that religion denies female autonomy, for it is in religious arenas that her heroines become most strong-minded, and that she herself engages as a novelist. As an heiress, Shirley is able to make a significant financial contribution to charity, far surpassing the busywork traditionally assigned to women. The nature of her contribution puts her in a fundamentally male role. She tells one of the curates, “you must regard me as Captain Keeldar to-day. This is quite a gentleman’s affair—yours and mine entirely” (Brontë 2008, 229). Although unable to make a charitable contribution of this nature, Caroline can join Shirley in engaging the dogmatic Joe Scott in religious discourse, a traditionally male forte. When asked her opinion of Paul’s commands regarding women, Caroline’s reply is surprisingly radical. She not only asserts that Paul intended it “for a particular congregation of Christians, under peculiar circumstances,” but also considers mistranslation from the Greek, suggesting that it could have originally said: “It is permitted to a woman to teach and exercise authority as much as may be. Man, meantime, cannot do better than hold his peace” (Brontë 2008, 278). This passage illustrates how religious discourse could allow women to demonstrate and lay claim to their

intellectual ability. Furthermore, it hints at the possibility of radical thought on the part of the female author, who wrote under a male pseudonym.

Like her heroines, Brontë herself engages in the male-dominated arena of religious discourse. Through her novels, she comments on the influence of religious hierarchy on women. Michael M. Clarke notes that “like many women whose fathers, husbands, or brothers were ministers [...], Charlotte Brontë used the novel to explore religious and theological concepts that would have been forbidden to them in the pulpit, lectern, or Parliamentary seat” (Clarke 2011, 968). The nature of Shirley and Caroline’s debate with Joe Scott reveals the author’s sensitivity to the connection between religion and women’s issues. To Scott’s claim that “women are [sic] to take their husbands’ opinion, both in politics and religion,” Shirley retorts, “you might as well say men are to take the opinions of their priests without examination. Of what value would a religion so adopted be? It would be mere blind, besotted superstition” (Brontë 2008, 278). Here, Shirley applies the fundamentals of Protestantism to gender relations. In divesting women of their own distinct relation to God, Protestant men undermine the very tenets of Protestantism, and the core of what distinguishes it from Catholicism. This moment frames the significance of the Protestantism-Catholicism discussion by the question of woman’s role. Throughout her work, Brontë habitually commends individual interpretation and critiques blind trust in hierarchy—not just with regard to religion, but also to gender relations.

In addition to the solutions for redundancy offered by religious practice, Brontë explores the options offered by various political and social agendas. Often, she presents marriage and emigration as binary fates for single women. The “Winding-up” chapter of *Shirley*, which marries off the protagonists, has traditionally been criticized as idealizing marriage for women, and as a compromise of Brontë’s feminist values. However, it is worth noting that the novel’s concluding marriages are based on love, and not convenience or survival on the part of the woman. Also, Brontë does not assign an “ordinary destiny” to every unmarried female in *Shirley*. The prophecy regarding future spinsters Rose and Jessy Yorke makes Brontë’s detailed characterization of the Yorke family more than a just a charming digression. According to

the prophecy, the sisters will travel together to a “foreign country,” where Jessy will die an early death and Rose will remain to enjoy its “wild, luxuriant aspect” (Brontë 2008, 128). The narrator describes Rose’s fate: “This is some virgin solitude: unknown birds flutter round the skirts of that forest; no European river this, on whose banks Rose sits thinking. The little, quiet Yorkshire girl is a lonely emigrant in some region of the southern hemisphere” (Brontë 2008, 128). This “virgin solitude” is both “lonely” and radically freeing—“wild” and “luxuriant.” As Anna Lepine argues in “‘Virgin Solitude’: Envisioning a Textual Space for Spinsters in Charlotte Brontë’s *Shirley*,” “Rose Yorke’s scene of virgin independence, if read as an alternate ending to *Shirley*, not only provides a hopeful answer to the novel’s questions about female independence and spinsterhood, but also highlights how women writers may subvert narrative form by writing outside the lines of the Victorian marriage plot” (Lepine 2007, 121). Brontë similarly forgoes traditional narrative structure with the open-ended conclusion of *Villette*, which implies the death of Lucy’s fiancé while still allowing “sunny imaginations [to] hope” (Brontë 2008, 596). The difference is that while Shirley and Caroline, living under the care of their uncles, were already dependents, marriage for Lucy Snowe would mean a tremendous loss of autonomy. In *Villette*, an ambiguous conclusion is necessary in order to allow the possibility of Lucy’s continued female independence. In “Empty Letters and the Ghost of Desire in Charlotte Brontë’s *Villette*,” Rachel Jackson suggests that the novel’s ambiguous conclusion is not so much the tragic loss of Lucy’s lover as it is the reclamation of her independence. She notes “the emancipating potential” of the novel’s open ending, and the significance that Lucy, as the narrator, chooses to conclude in such a way (Brontë 2008, 98). Whether or not M. Paul dies, Lucy can immortalize her own independence by withholding closure from her readers.

By including Rose Yorke’s future in a “foreign country,” Brontë allows her readers a glance at another possible option for unmarried women: emigration. The emigration solution is most palpable in *Villette* and *Jane Eyre*, in which the heroines embody female mobility. The impetus for their migration is the desire (and in some ways necessity) to travel from where they are considered a burden, to where they can be useful, and even needed. For Lucy Snowe, as with half a million women in Brontë’s time, this means leaving England. As Anne Longmuir argues, “Lucy

Snowe's decision to travel abroad should therefore be read within the broader context of calls for female emigration; Lucy is not only unwelcome in England, she is literally considered a 'social problem' there" (Longmuir 2007, par.7). Emigration for work opportunities, and not with the intent of finding husbands, as in Greg's emigration plan, offered women the opportunity to create a new identity through labor in an environment that enables independence and a sense of self-worth.

Unmarried women remaining in England under the care of a male protective figure, on the other hand, neither fulfill the "ordinary destiny" of marriage nor labor abroad for financial independence. Such women suffer the stigma of dependence. Although we are never given direct speech from them, we are told that *Shirley's* Miss Ainley and Miss Hall, two of the novel's spinsters, "sincerely desired to be useful" (Brontë 2008, 230). Solitude, particularly that found outside of England, allowed redundant women an escape from being a problem or a burden. Shirley's greatest aversion to marriage is that of being a dependent: "Nothing irks me like the idea of being a burden and a bore,—an inevitable burden,—a ceaseless bore! Now, when I feel my company superfluous, I can comfortably fold my independence round me like a mantle, and drop my pride like a veil, and withdraw to solitude. If married, that could not be" (Brontë 2008, 181). Not only is there irony in the use of the word "superfluous" here, but the mantle and veil image yields yet another subtle reference to convent life, confirming the necessity of celibacy for the type of solitude desired. Such images of seclusion and self-confinement appear throughout both *Shirley* and *Villette*, yielding a peculiar fusion of restriction and independence. For Shirley, as for every Brontë heroine, solitude is preferable to being a burden to others.

In *Villette*, solitude can mean oppression, independence, protection from rejection, or a combination of these. Although Lucy actively seeks and chooses her own type of solitude, she resents solitude when it is imposed upon her by outside influence or circumstances beyond her control. Near the beginning of Madame Beck's fête, Lucy retreats "to the school-rooms, now empty, quiet, cool, and clean; their walls fresh stained, their planked floors fresh scoured and scarce dry; flowers fresh gathered adorning the recesses in pots, and draperies, fresh hung, beautifying the great

windows” (Brontë 2008, 201). The solitude found in this room is one of aesthetic virginity—“clean” and “fresh”—in contrast with the solitude Lucy experiences shortly after, when M. Paul locks her in the attic to learn her role for the play. The sterile classroom offers a “virgin solitude”—to borrow from Rose Yorke’s in *Shirley*—that is a sort of safe haven for Lucy. M. Paul’s “solitary and lofty attic,” on the other hand, is “no pleasant place” (Brontë 2008, 203). Unlike the “fresh” and “clean” classroom Lucy chooses as her place of solitude, the attic is characterized by filth: “old dresses draped its unstained wall—cobwebs its unswept ceiling. Well was it known to be tenanted by rats, by black beetles, and by cockroaches—nay, rumor affirmed that the ghostly Nun of the garden had once been seen here” (Brontë 2008, 204). Lucy resents the attic not merely because of its aesthetics, but because Paul has momentarily infringed upon her autonomy. Lucy is so put off by the “dust, lumber, and stifling heat of the place,” that she decides to “open and prop up the sky-light, thus admitting some freshness” (Brontë 2008, 204). She desires a different, distant site of solitude—one that she creates for herself, and one that secures her independence.

The mention of the spectral nun in the description of the attic serves as more than a gothic element of narration intended to paint Lucy’s experience as fearful. In this attic, M. Paul’s place of confinement, Lucy finds herself much like a nun, “fasting and in prison” (Brontë 2008, 205). The mention of the nun associates the attic, and the oppressive brand of solitude that it represents, with Catholicism. For Lucy, the difference between her desired solitude and oppressive solitude speaks to the difference between Protestant and Catholic answers to the redundant women question: the former is about self-restriction; the latter about the oppression and surveillance of a hierarchy. Lucy notes the central cultural and religious differences with regard to surveillance:

Foreigners say that it is only English girls who can thus be trusted to travel alone, and deep is their wonder at the daring confidence of English parents and guardians. As for the “jeunes Miss,” by some their intrepidity is pronounced masculine and “inconvenant,” others regard them as the passive victims of an educational and theological system which wantonly dispenses with proper “surveillance” (Brontë 2008, 114).

The solitude of the attic is repulsive to Lucy because it is imposed upon her by the Catholic notion of surveillance. To travel on her own and be her own chaperone would be a welcome and more freeing type of solitude. This radical self-surveillance, according to Catholic foreigners, makes the mobility of English women a challenge to gender roles. Such judgments on female mobility perpetuate a vicious cycle: a mobile, financially independent woman is considered “masculine” and therefore unmarriageable; but she is forced to be mobile and financially independent *because* she is unmarriageable. This cycle accounts for a paradoxical notion of solitude. Solitude can mean freedom for redundant women, but it is a freedom which results from the isolation of being unwanted. Lucy notes the dual implications of her independence: “I know not that I was of a self-reliant or active nature; but self-reliance and exertion were forced upon me by circumstances, as they are on thousands besides” (Brontë 2008, 95). The mention of foreign locales in Lucy’s description of the attic not only serves a reminder of the emigration option, but also betrays her travel-smarts and “masculine” knowledge of the world. She says: “In the summer weather, it [the attic] was hot as Africa; as in winter, it was always cold as Greenland” (Brontë 2008, 203-204). The use of geographical references resonates with Lucy’s desire to travel away from an unpleasant climate, whether it be physical, political or cultural.

Lucy’s solitude is oppressive not just when it is imposed upon her, as in M. Paul’s attic, but also when it becomes synonymous with loneliness. These are the moments most replete with inner torment and suppressed desire. During the long vacation Lucy spends alone at Rue Fossette, loneliness takes a physical toll on her: “a want of companionship maintained in my soul the cravings of a most deadly famine [...] At last a day and night of peculiarly agonizing depression were succeeded by physical illness” (Brontë 2008, 230-231). Lucy does not see companionship as the antidote for her ailments, however. She thinks she would feel better if she “got out from under this house-roof, which was crushing as the slab of a tomb, and went outside the city to a certain quiet hill, a long way distant in the fields” (Brontë 2008, 232). Her answer to the misery of her current solitude is, strangely, to adopt a new, fresh, and “distant” place of solitude. This is because Lucy’s desire to travel is often fueled by

the need to remove herself from people, places, and situations that invite rejection.

Lucy's tendency to create distance, both emotional and physical, is something of a defense mechanism she has developed in the course of her life as a friendless orphan. Mark Lilly notes that she sustains distance both as an individual and as a narrator: "Lucy's reticence (not merely towards the other characters but towards us, the readers) is tantamount to deception" and "an extension of that habit of solitude" (Brontë 1985, 607). For heroines such as Lucy Snowe, Jane Eyre, and Caroline Helstone, solitude allows emotional distance and protection from being hurt or rejected. In spite of her reserved demeanor, Lucy admits dreading "that insufferable thought of being no more loved" (Brontë 2008, 232). While she desires love, she chooses not to indulge herself in entertaining hopes and making herself vulnerable. Throughout the novel, Lucy voices this inner struggle in her mediation between Reason and Feeling. The miserable moments of solitude experienced by both Lucy and *Shirley's* Caroline Helstone are nearly always related to their unrequited romantic love towards John Graham Bretton and Robert Moore respectively, or to the absence of familial love. For these heroines, familial love is just as valuable, if not more valuable, than romantic love. After all, it is the discovery of her long lost mother, Mrs. Pryor, that revives Caroline from the fatal illness that resulted from rejection by Robert. A particularly piquant image of the solitary orphan plight is the opening scene of *Jane Eyre* in which Jane retreats behind the drapes of the window, separating herself from the rejection of the Reed family. The friendless orphan type we encounter across Brontë novels speaks to the half a million English women who were unwanted by their mother country.

Part of the need for emotional distance for women such as Lucy Snowe and Jane Eyre is the vulnerability that ensues from their ambiguous social status. Lucy's invisibility often comes hand in hand with her being an unmarried, yet unmarriageable woman. At Madame Beck's fête Lucy wears "a clear white muslin dress, a blue sash (the Virgin's colours), [and] a pair of white, or straw-colour kid gloves" (Brontë 2008, 199). In observing her reflection she says: "I well remember feeling myself to be a mere shadowy spot on a field of light" (Brontë 2008, 200). This apparel, suited for

unmarried girls, is also a “gown of shadow” (Brontë 2008, 200). Society does not “see” unmarried women such as Lucy, whose plain appearance and “masculinity” cause them to fade into the background behind attractive girls such as Ginevra Fanshawe. Graham perceives Lucy’s wisdom and independence as masculine qualities, telling her, “if you had been a boy, [...] we should have been good friends” (Brontë 2008, 401). Ironically, these qualities make Lucy less of a woman than the immature Ginevra and childlike Polly. While the young girls are objects of his desire, Lucy is merely an “inoffensive shadow” in his eyes (Brontë 2008, 403). Moments of Lucy’s invisibility are often connected with her pursuit of solitude. Even M. Paul comments that when “people in this house see you pass [...]. [they] think that a colourless shadow has gone by” (Brontë 2008, 226). Many are puzzled as to what to make of her, as we can see from Ginevra’s intrigue: “Who are you, Miss Snowe?” (Brontë 2008, 392). Brontë’s use of the governesses or teacher type reveals her concern with the psychological state of such women whom society struggles to categorize. Anne Longmuir notes that the governesses “undermined class and gender boundaries” because “her duties resembled those of the middle-class mother, while her wages resembled those of a working class man” (Longmuir 2008, par. 6). As we can see from Brontë’s work, such women were often treated with suspicion, when it was not indecorous ambition, but poor financial circumstances that forced them to take their position.

If in nothing else, Brontë succeeds in showing that “men and women never struggle so hard as when they struggle alone, without witness, counsellor, or confidant; unencouraged, unadvised, and unpitied” (Brontë 2008, 158). Despite this, she saw no alternative to solitude that did not compromise female independence and autonomy. In her introduction to *Shirley*, Janet Gezari argues: “Brontë is less interested in solving the problems she addresses in *Shirley* than in giving voice to the pain, frustration, misery, distress, degradation, and dependence that is the lot of so many middle-class women in England” (Brontë 2008, xvi). That, despite the misery of loneliness, Lucy Snowe clings to solitude shows how much a woman must sacrifice for independence. Brontë takes the religious, social and cultural dialogues surrounding redundant women, and puts them in conversation with one another. She does this not to elevate one

solution over the others, but to expose a peculiar plight to which there is no simple answer—one in which solitary independence is both crippling and freeing. In grappling with this paradoxical condition, she frames for subsequent eras a critical moment in women's history.

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**QUEER(ING) PUBLIC SPACES IN *THE CITY AND THE PILLAR*
(1948)**

EVE SANOUSSI (CLA 2014)

“They feared nothing, at least behind the high stucco walls of Shaw’s estate.”

– Gore Vidal, *The City and the Pillar*

In “The Cities of Night: John Rechy’s ‘City of Night’ and the American Literature of Homosexuality,” Stanton Hoffman reconceives what he terms the “gay world” as one of two poles in recent queer American literature, the other pole being the image of the individual homosexual (Hoffman 1964, 195). To distinguish Hoffman’s dated perception of queer worlds from the modern-understanding of queer worlds and world-making illustrated by Berlant and Warner, I will frame the term “gay world,” when it pertains to Hoffman’s argument, in quotations. According to Hoffman, the “gay world,” which is epitomized by physical spaces which have been designated “queer,” is a metaphor for American reality, an America in which men are “emasculated, and robbed of the possibility of ‘healthy love’” (Hoffman 1964, 197). Hoffman expresses the concern that, unlike similar influential novels about the homosexual experience, such as James Baldwin’s *Giovanni’s Room* (1956) and John Rechy’s *City of Night* (1963), Gore Vidal’s *The City and the Pillar* does not fully explore the metaphorical potential of its “gay world” (Hoffman 1964, 198). Hoffman explains more specifically that [Vidal’s “gay world”] is “somewhat undiscovered, and too much contained in statements, and not apparent enough as important in the novel’s plot” (Hoffman 1964, 198). However, to say that *The City and the Pillar* does not fully expand the potential of its “gay world” is to overlook, or fail to understand, the necessary secrecy and mobility of queer culture.

By drawing upon “Sex in Public,” Lauren Berlant and Michael Warner’s analysis of the necessity and nature of queer worlds and world-making, I will argue that Gore Vidal’s *The City and the Pillar* offers a critical counterpoint to Hoffman’s dated notion of the “gay world” as an emerging metaphor for American reality. The “gay world” is not a threat to individual gays in [search of] love; nor is it a metaphor for American reality. American reality is heterosexual culture, and it is in this heteronormative structure

that the queer characters in American literature struggle or fail to find love. The “gay world,” then, is not an “underworld.” It is a refuge within the dominant, heterosexual culture.

Vidal’s construction of a queer world is not without flaws, nor would be any author’s, but to say that too much is “undiscovered” or that there is “too much contained in statements” rather than in the novel’s plot is to completely misunderstand the nature of queer world-making (Vidal 2003, 198). If Vidal fails to fully explore the metaphorical potential of his queer world, it is because he recognizes that the potential of queer world-making is restricted by the confines of heterosexual culture. True to life, Vidal’s queer world exists in several spaces, and perhaps “more spaces than can be mapped beyond a few reference points” or plot points (Berlant and Warner 1998, 558). It exists not only at a “gay’ party,” but “behind the high stucco walls of Shaw’s estate” ((Hoffman 1964, 196; Vidal 2003, 72), which serves as a metaphor for the larger, external queer world or queer culture as a whole. Vidal’s queer world-making is not restricted to gay parties either. Instead, it becomes evident, as I will demonstrate through a close-reading of *The City and the Pillar*, that, like the queer world of our American reality, Vidal’s queer world is necessarily mobile and covert.

Examining how Vidal’s queer world is constructed, contained, and confined by heterosexual culture is useful, because it provides a framework within which we can better understand or critique the impossibility of [finding] love in *The City and the Pillar*, as well as the tragic endings to which gay characters in American literature are condemned. For instance, contrary to Hoffman’s claim, Jim’s “obsession with a single moment and a fall from grace,” is not contained within the American reality Vidal constructs in the novel (Vidal 2003, 197). Rather, the “single moment”—that is, Jim’s experience with Bob in the woods—is exemplary of the often necessarily clandestine nature of queer culture. Unlike heterosexual culture, a community that relies upon face-to-face relations, queer culture “has found it necessary to develop [shared] knowledge in mobile sites [...] whose mobility makes them possible but also renders them hard to recognize as world making because they are so fragile and ephemeral” (Vidal 2003, 561). Heterosexual culture is allowed to manifest explicitly, through “love plots” and sentimentality. Queer

culture, on the other hand, must work with what it is given, be that a literal space or a single moment in a novel.

In a speech about ambient citizenship during the International Communication Association's (ICA) 2009 mini-plenary, Lauren Berlant said: "Public spheres are always affect worlds, worlds to which people are bound, when they are, by affective projections of a constantly negotiated common interestedness" (Berlant 2009). Although, here, Berlant is referring to public spheres as they relate to ambient citizenship, this interchangeability of "public sphere" and "world" also applies to queer culture. As Berlant and Warner propose in "Sex in Public," like "public," the term "world" necessarily involves "more people than can be identified, more spaces than can be mapped beyond a few reference points, modes of feeling that can be learned rather than experienced as a birthright" (Berlant and Warner 1998, 558). Just as queer scholarship has warned against grounding or limiting the field to questions of sex and sexuality, Berlant and Warner warn against restricting queer culture to matters of sex (Somerville 2007, 190). Queer culture necessarily provides safe spaces for sexual encounters, but it should also provide a safe zone for the "changed possibilities of identity, intelligibility, publics, culture, and sex that appear when the heterosexual couple is no longer the referent or the privileged example of sexual culture" (Berlant and Warner 1998, 548). For this reason, to trivialize queer culture as a "lifestyle" would be to misrecognize "the fundamentally unequal material conditions whereby the institutions of social reproduction are coupled to the forms of hetero culture" (Berlant and Warner 1998, 561).

In *The City and the Pillar*, there are several scenes where the disparity between the necessary secrecy and mobility of queer culture and the "institutional matrix" of heterosexual culture manifest (Vidal 2003, 562). One particularly noteworthy instance occurs in Chapter 10, when Jim returns home for the holidays. This is a pivotal chapter in the novel for a few reasons: first, it is Jim's first homecoming since he left during his late adolescence; second, perhaps for the first time, Jim fully acknowledges that he cannot be like his family and, therefore, cannot be "normal"; and, third but most importantly, Jim expects to be reunited with Bob. As he is sitting with his family at the dinner table, Jim observes that everyone is talking about marriage; "secure people whose lives

followed a familiar pattern, the experience of one very much like that of the other. But when they tried to advise [him], none suspected that their collective wisdom was of no use to him, that the pattern of his life was different from theirs” (Vidal 2003, 189).

The “pattern” of Jim’s life in this passage has a double meaning. On the one hand, it refers to “the usual pattern” of what the novel suggests is the development of the gay male—a pattern described by one of Jim’s lovers, Sullivan:

It starts in school. You’re just a little different from the others. Sometimes you’re shy and a bit frail; or maybe too precious, too handsome, an athlete, in love with yourself. Then you start to have erotic dreams about another boy—like yourself—and you get to know him and you try to be his friend and if he’s sufficiently ambivalent and you’re sufficiently aggressive you’ll have a wonderful time experimenting with each other. And so it begins (Vidal 2003, 84).

On the other hand, the word “pattern” can be understood as a synonym for the “ephemeral elaborations” of queer culture. In other words, Jim’s inability to relate to the “familiar pattern” experienced by his family is demonstrative of the fact that queer culture “has almost no institutional matrix for its counterintimacies” (Berlant and Warner 1998, 562). But the project of queer world-making must do more than simply invent “queer versions” of—and, thereby, conform to—heteronormative forms of intimacy. Rather, it must create and support forms of intimacy that are public in terms of accessibility, availability, and sustainability through collective activity.

Unfortunately, Vidal’s queer world is situated in 1940s America, where the idea of public forms of intimacy had yet to be fully accepted. Thus, Vidal’s queer characters are restricted from ever fully experiencing the vast and varied possibilities that emerge when the heterosexual couple no longer epitomizes all of sexual culture. In this respect, we can conclude that contrary to Hoffman’s critique, Vidal’s queer world is inclusive of more than safe zones for sex, like gay bars and parties; it operates within the same boundaries that limit the expansion of real-life queer culture.

Another critical moment in *The City and the Pillar* illustrates the disparity between the institutional matrix of heterosexual

culture and the ephemeral elaborations of queer culture. Chapter 9 introduces a discussion between two attendees at a party held by Nicholas J. Rolloson. One of the guests, whom Vidal names “the bifocals,” says/declares: “I adore body men [...] Teutonic and primitive, not like those of us who are simply frustrated and inhibited by a society grown too complicated to understand. This young man is the true archetype, the original pattern of which we are neurotic distortions” (Vidal 2003, 159). Hoffman quotes a similar passage—likely the original version of the passage that was revised for the 1965 edition of the novel—in which [presumably the same attendee] proposes that homosexuality in America is “less the result of Teutonic primitiveness than it is the result of negation: not so much a healthy love for other men than hatred of women, a repugnance, a revolt against their authority” (Hoffman 1964, 197). Hoffman views this passage as an opportunity to degrade the “gay world” as a metaphor for an America in which men are emasculated. However, I would argue that the bifocals’ recognition of gay men as neurotic distortions of masculine (heterosexual) men is actually a perfect example of the inclination to conceptualize queer culture within, or in terms of, heterosexual culture. As in real life, Vidal’s queer world lacks the institutional matrix privileged to heterosexual culture. Thus, just as gay men were perceived as neurotic distortions of heterosexual men, queer culture was nothing more than a distortion of heterosexual culture—even to members of the queer community.

One of Hoffman’s gripes with *The City and the Pillar*—which Hoffman believes exemplifies the “partial discovery” of the metaphorical potential of Vidal’s “gay world”—is that the pivotal moment that occurs between Jim and Bob in the exposition “is not contained in the ‘gay world,’ which is made to represent another part of that same reality” (Vidal 2003, 198). However, Hoffman’s notion that if a scene or moment does not occur within a physical queer space it is not contained within queer culture is exemplary of the problem faced by queer counterpublics. More often than not, queer culture does not, because it cannot, occupy physical or domestic spaces. Rather, queer spaces rely on mobility and secrecy. This is especially true of the slave cabin that Jim and Bob occupy at the beginning of the novel. Although it would appear that the slave cabin is merely a safe zone in which Jim and Bob can have sex, the cabin also provides a space that is unrestricted by heterosexual culture. Even when Bob warns Jim that the sex

was “awful kid stuff,” Jim can still cherish that single moment as a “conscious dream” (Vidal 2003, 30; 31).

If there is any bone to be picked with Vidal it is, perhaps, his inability to recognize the full extent to which queer culture is restricted by heterosexual culture, even in his own novel. In the first chapter of his book, *The Essential Gore Vidal*, Vidal says that the function of Jim’s character is to “demonstrate the romantic fallacy” (Vidal 1965, 157). He goes on and explains: “From too much looking back, he was destroyed, an unsophisticated Humbert Humbert trying to re-create an idyll that never truly existed except in his own imagination” (Vidal 1965, 157) Similarly, in an interview conducted by Gerald Clarke for *The Paris Review*, Vidal stated that the objective of *The City and the Pillar* was to illustrate the romantic temperament: “Jim Willard is so overwhelmed by a first love affair that he finds all other lovers wanting. He can only live in the past, as he imagined the past, or in the future as he hopes it will be when he finds Bob again. He has no present. So whether the first love object is a boy or girl is not really all that important” (Vidal 1974). However, the fact that Jim’s first love interest was male makes all the difference. Jim’s inability to move forward, except in an endeavor to fulfill the commencement of his love affair with Bob, is more than an example of romantic fallacy. It is also an example of the necessity of queer world-making. Although the queer world in which Jim immerses himself provides opportunities to forge sexual relations, it does not provide the forms of “affective, erotic, and personal living that are public in the sense of accessible, available to memory, and sustained through collective activity” and which are available to heterosexuals (Berlant and Warner 1998, 562).

While Vidal’s explanation of Jim’s romantic fallacy may be disappointing, it also invites further avenues of thought. If Jim has no present, what are we to make of his presumed suicide at the end of the novel? Is it still a tragedy? Or can we read Jim’s suicide as a necessary course of action? Perhaps, more important than the meaning of Jim’s suicide is what it suggests about the culture. I would go as far as to state that Jim’s suicide exemplifies the necessity of queer world-making. As Berlant and Warner argue, it is not enough for queer worlds to merely reconceive the traditional institutions of heterosexual culture. Queer world-making requires “the development of kinds of intimacy that bear no necessary

relation to domestic space, to kinship, to the couple form, to property, or to the nation” (Berlant and Warner 1998, 558). Jim and the other queer characters in Vidal’s novel do not have, because they cannot imagine, such a world. For Jim, especially, queer culture is little more than a distortion of heterosexual culture—in which gay men strive for their own versions of the institutions that exist in heterosexual culture. Lacking such a queer world, and unable to construct one for himself, Jim could not help but commit suicide, for he could not truly live as a gay male within the dominant heterosexual framework.

In a 2003 review for *The Nation*, Adam Haslett reminds us that *The City and the Pillar* is not another text about “the pejorative wisdom that homosexuals were desperate and perverse people who dressed hair by day and lurked in alleyways by night. This book was about the love of a shy, handsome, all-American high school athlete for his equally athletic, all-American classmate” (Haslett 2003, 26). The fact that *The City and the Pillar* is not a monstrous stereotype of the lives of gay men in America does not absolve the novel from criticism. However, we must not underestimate how Vidal succeeds—perhaps as much as was possible during the time that the novel was published—at constructing queer spaces that are just as necessarily mobile and as restricted as the queer spaces that exist in reality.

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**THE KING OF “ERLKÖNIG”:
HOW SCHUBERT’S LIED RENDITION SET A NEW
STANDARD FOR GOETHE’S POEM AND THE LIED GENRE**

KATARINA MCKEEVER (CLA 2014)

In 1782, the beloved German writer and poet Johann Wolfgang von Goethe graced his friends and fans with yet another masterpiece ballad: “Der Erlkönig.” Inspired by Nordic mythology surrounding a dark elven king, Goethe penned the exhilarating, mystical, and ultimately tragic tale of a father’s desperate ride to save his ailing son, as the delirious child succumbs to the seduction of the “Erlkönig,” or the Elf King (Swales 2002, 29). The poem was an immediate success within both the artistic and the general community, and quickly served to inspire other artists in turn. Musicians, many of whom were a part of Goethe’s own social circle, began setting the words to song, resulting in a variety of German Lieder that shared the exciting text. Goethe, a trained pianist and cellist and a general lover of music, was known to have appreciated these musical workings, and was even likely to have encouraged them (Moore 2012, 23-24). And yet, as Goethe’s text was quickly becoming one of the most widely musically set poems, he had no way of knowing that the setting which would become the most famous and iconic had not yet even been drafted. In fact, its composer had not yet even been born.

Franz Schubert was born in 1797 to a lower-middle class Viennese family. His father was a schoolmaster, and he received a solid education, both in general studies and in music. Shy, homely, and not especially privileged, Schubert amazed his peers and teachers with his impressive work ethic, his sheer intelligence, and his immense talent. These traits won him prestigious educational opportunities along with a supportive circle of friends, most of whom were older, and many of whom were wealthier (Kerman 2012, 242). With their encouragement, and with that of his very musical family, a thirteen-year-old Schubert first took to composition. Building up an impressive and diverse musical catalogue, yet lacking the prospects of a promising career, he reluctantly followed his father’s footsteps, taking a position as a schoolteacher. Still, despite his busy schedule, an 18-year-old Schubert certainly found time to compose. In fact, he was more

productive than ever, averaging 65 new bars of music per day. Entirely unable to secure large halls, he presented his music at intimate gatherings of friends and family, later dubbed Schubertiades (Winter). Interestingly enough, his weaknesses turned into strengths. A demand for chamber music rather than large-scale orchestral works, combined with his job-induced study of literary greats, directed a young Schubert to what would become his signature genre, and the genre in which he would set his famous rendition of Goethe's "Erlkönig": the Lied.

Schubert had inherited a relatively large but still-evolving Lied tradition. Lieder had emerged as a distinctive German art form in the mid 18th century, paralleling the literary development of lyric poetry. Compared to its neighboring countries, Germany lacked large-scale unity on many levels, and due to a variety of factors such as church politics and cultural insulation, it was relatively sheltered from Enlightenment ideas. Thus, the Lied of the people became a simple song, strophic settings of texts for voice and accompaniment, often with folk roots and mythological subjects (Moore 2012, 9-15). It was a humble but popular genre, one born in the Classical Era and waiting to be raised to its Romantic potential — a challenge that Schubert seemed to have accepted eagerly. In fact, many musicologists have argued the true birth date of the Lied to be October 19th, 1814, a year of great experimentation and growth for Schubert, the year before he would compose his famous "Erlkönig" setting (Winter).

How did this all happen? How did a young, and virtually unknown musician, almost singlehandedly surpass a whole generation of Lieder composers and a whole Lieder tradition? Through an analysis of Schubert's "Erlkönig," I shall demonstrate how Schubert's brilliance and boldness in the composition of this piece not only secured his work as the most iconic setting of Goethe's text, but also contributed to the development of the Romantic Lied genre.

Schubert's masterpiece "Erlkönig" embodies many characteristics that are arguably contemporarily quite unique. Perhaps the most basic of these traits is his approach towards the actual composition of the piece itself. He took the process very seriously. He wrote a through-composed Lied, creating new music for each verse of the poem, at a time when more basic strophic

settings were the norm. And though the first draft was written in a supposed fit of passion, Schubert went on to seriously rework the piece on at least three different occasions. This was done at a point in musical history when Lieder were not being given so much careful consideration — it was typical for composers to pump them out quickly and with little afterthought. In fact, in working as he did, Schubert was making an exception to his own rule, as he had spent the year of 1815 producing 145 Lieder in addition to other works. But “Erlkönig” was carefully edited over a span of time. Furthermore, most of Schubert’s edits were made in the accompaniment, the dynamics, and the pacing, such as the addition and subtraction of several piano measures (Woodstra 2005, 1196). This indicates the composer’s clear desire to do more than just create a pleasant or tuneful melody but also to compose a serious, unified, and carefully thought-out musical piece.

Just as Schubert put great work into the writing process, he expected his musicians to put work into the performance. “Erlkönig” was not written for amateur musicians, as was the standard of Lieder. In fact, “Erlkönig” could only be performed well by highly trained musical artists with professional-level skills, as both the accompaniment and the vocal line are highly demanding. While the vocal range is by no means extreme, spanning only an octave and a fifth, it requires the singer to rapidly switch back and forth between registers and to take on contrasting timbres, in order to represent the voices of the four different characters (Roden 2006, 1117). It was actually relatively common during the 18th century for four singers to divide up the parts and sing them individually, so as to alleviate this difficulty. Apparently, Schubert would often sing the voice of the father (Winter). As for the accompaniment, the relentlessly pounding octave triplets in the right hand demand profound levels of speed, control and stamina — levels of ability that even Schubert himself lacked. In performance, he would regularly omit the triplets, replacing them with eighth notes. He explained this by simply saying, “They are too difficult for me, a virtuoso may play them” (Gorrell 1993, 115). At Schubert’s own gatherings, that “virtuoso” was often the famous composer, arranger, and pianist Franz Liszt. Such demands represent an obvious change in standard and quality of the Lied: this was no longer just an easy and fun parlor song.

It would actually be Liszt who would bring Schubert's "Erlkönig," and symbolically the Lied itself, out of the home and into the concert hall. The younger composer was completely infatuated with the musicality and virtuosity that he saw in Schubert's work, particularly in his Lieder. In fact, he had even contemplated setting aside some of his own musical endeavors for a while in order to focus on writing a biography of Schubert. After Schubert's untimely passing, Liszt took to transposing a number of his Lieder for solo piano, including "Erlkönig." His first goal was to advance the already impressive technique required by Schubert's duos, presenting both the melody and accompaniment within a self-contained piano piece, while maintaining all of the original's musical sense and substance. His second, and perhaps more important goal, was to celebrate the deceased composer. Presented as a piano piece, Schubert's "Erlkönig" suddenly gained entrance into a new venue, the concert hall, and even into new geographical regions such as France. In addition, many listeners became more comfortable with accepting the merits and sophistication of Schubert's original once they had heard Liszt's transcription (Walker 2014, 32). Eventually they even acknowledged the Lieder of Schubert and others in their own right, and welcomed them too into concert halls as serious works of art.

This status change was certainly well deserved. Focusing in on the piece, Schubert's "Erlkönig" is brimming with wonderful musical details for the listeners not just to enjoy, but also to appreciate, to reflect on, and maybe even to contemplate. Schubert possessed an impressive understanding of the human voice, acquired during his youth as a choirboy, and a remarkable sense of melody. When listening to almost any of Schubert's Lieder, these gifts of his are made quite evident, even to an untrained ear. Rather than just relying on these skills to create tuneful songs, Schubert used his skills to further express and enhance the text. His friend Leopold von Sonnleithner once commented on Schubert's melodies and harmonies, remarking that they "[...] follow [the associated text] closely in every respect, and always interpret the poet profoundly" (Gorrell 1993, 118).

This becomes apparent from the opening of "Erlkönig." The first measure consists of only pounding triplet G's stacked in octaves, but there are 23 of them. His second measure is essentially the same as the first, with the addition of a G-minor

scale in the bass clef. The emptiness of the octaves is foreboding; the pounding of the triplets is suspenseful; the tone of the minor scale is dark. Two measures in, and Schubert has already set the scene perfectly (“Schubert”).

When the text finally enters in the 15th measure, the audience already has a strong sense of what is to follow. Schubert has used the music to introduce the text, and now he begins to explore the text. One of his most famous techniques for this is the previously mentioned manipulation of the melody to represent the different voices of the characters. The narrator opens, singing with relative neutrality in the middle of the song’s register. The father’s voice follows and is quickly established in the lower register, his musical lines moving with a certain stiffness, an implied gruffness. The son’s voice enters third and is in a contrasting higher register, jumpy and agitated. And finally there is the music of the Elf King, which distinguishes itself entirely from that of the other three. It drips in desire and allure. The phantom opens the third stanza, seductively whispering his tempting text in a clearly marked *pianissimo*, with a line that is easily sing-able, alarmingly sweet, and starkly major (Kapilow 2011, 55-56). The fifth character has no distinct melodic voice, but he has been present since the opening of the song: Schubert’s horse, his existence made known only by those triplets that mimic the pounding of hoof beats.

But Schubert’s music does far more than just foreshadow and identify the characters — its true merit lies in its evolvment with the characters, following them through their journey. As the child’s fear heightens, so does his voice. He cries out in the fourth stanza, “Mein Vater, Mein Vater,” his voice shrieking out an E-flat that grinds against the piano’s recurring D. The growth of this wrenching tension is the perfect musical equivalent of the intensification of the child’s panic (Kapilow 2011, 56). As the young boy succumbs further to his illusions, the father forces himself deeper into denial. His attempt to redirect the child’s thoughts is mirrored in his redirection of the child’s music (Kapilow 2011, 59), pushing into the remote key of B minor on the way to a G major cadence (“Schubert”). But just as the moments of major-key sonority seem too stark and sudden when sung by the Elf King, here they seem too fleeting. The “goodness” is an illusion.

And an illusion can only be maintained for so long. In the seventh stanza, the Elf King reveals his true colors. The character, who until now has been identified by “light” sounds, shifts his façade, echoed by Schubert’s shift in key. He offers the boy one more sweet solicitation of love, contrasting the D-minor piano interlude with an E-flat major entrance (Kapilow 2011, 64). And when he receives no answer, his lyrics for the first time turn threatening, and his music minor: “Und bist du nicht willig, so brauch’ ich Gewalt [And if you’re not willing, then I’ll use force]” (“Schubert”). By linking the music so closely to the text, Schubert is actually able to completely reestablish the Elf King’s identifying music without losing his audience, and thus is able to redefine the mad spirit’s character.

Even the horse experiences musical development: when the Elf King first enters in measure 57, the triplets that had been previously performed exclusively by the right hand are broken up between both hands, the left hand playing only directly on the beat, and the right hand finishing off the remaining two notes of each of the triplets, creating a waltz-like effect (“Schubert”). When the Elf King reenters in the 86th measure, the right hand continues to play the entirety of the triplets, but this time they are running arpeggios as opposed to the chords that have been pervasive throughout (“Schubert”). Again, this brings out a sweet dance-like quality in the music. This change in the accompaniment not only serves as yet another way to identify the presence of the Elf King, but also the child’s battle with hallucination. The horse’s steady hoof prints have served to ground the song, and the little boy’s sense of reality. As they are distorted by the sweet façade of the Elf King, the child is losing touch, the horse, his father, and life itself becoming more distant.

Not only does the music develop with the characters — it also evolves with the plot. In measure 131, as the tension and the father’s desperation mount, the relentless triplets that have been pounding through the right hand are matched simultaneously in the left hand (“Schubert”). The father rides faster, the music speeding up with him to *accelerando*. He arrives with a struggle, the left hand of the piano ascending chromatically through measure 140. He slows in sheer exhaustion, the music trailing off with him. The song is about to end, and it is here that Schubert,

the master of melody, makes a musical choice that is nothing short of fascinating.

There is one line left, a single line to convey the end of the story and the fate of the boy. One would expect, after the fantastic melodies that Schubert has woven thus far, that the final line would trump them all. But in fact, Schubert does just the opposite: the final line, "In seinen Armen das Kind war tot," is written in recitative. This is quite wild. As musicologist John Reed notes, the vast majority of the poem and song is constructed of direct speech, and yet here, in one of the few moments of narration, recitative is utilized, unaccompanied, and unembellished (Schubert, "Erlkönig" 223). A cadence follows to signify the end. This single line shocks, it thwarts all listeners' expectations. For the first and only line in the poem, Goethe uses a reflective past tense. It is over and done, there is nothing more to be said. Following his lead, Schubert makes no attempt to compose a screeching melodic line that fanfares the devastation and tragedy. Instead, he offers listeners a bare and haunting recitative that perfectly captures and reflects on the emptiness and sorrow of the reality: "[In his arms, the child was dead]" (Schubert).

Still, despite the inclusion of all these incredible details and the careful artistry he demonstrated, Schubert did manage to respect the roots of the genre for which he was composing. Lieder were never meant to be so complicated that the average listener could not appreciate them. And so, instead of just making "Erlkönig" simple, Schubert worked to make it accessible. The entirety of the first 15 measures contains only three musical ideas, each highly functional and easy to follow (Schubert). And the signature rhythm of the piece ingrains itself into the brains of listeners as easily as that of Beethoven's 5th, while offering a sense of large-scale unity. Schubert's "Erlkönig" was made sophisticated but not un-relatable, catchy but not trite, memorable but not unworthy of consideration.

This is ultimately where the only other setting at the time that was not completely strophic, that of Ludwig van Beethoven, fell short. Beethoven's rendition is not just through composed, but almost fragmented. It could not be called melodic by any standard, and while there are some recurring musical sections, especially within the accompaniment, they do little to tie the piece together

as a whole, making the Lied very difficult for the audience to follow (“Unheard”). So much in fact that it tends to draw the attention of listeners away from the text. Although Beethoven’s song features some unquestionably well-written musical sections, it lacks the entertainment value of Schubert’s setting, ultimately detaching it from the very essence of the Lied tradition. Goethe verbally rejected Beethoven’s setting for the piece’s flaws, but more importantly for how it failed to align with his vision. This, along with other factors, resulted in Beethoven’s loss of desire to even attempt to have it published. For a century, his rendition remained almost unknown among his many fans, with the exception of fellow musicians and his most ardent admirers, Schubert apparently included.

Beethoven’s setting was simply not what Goethe had intended when he encouraged composers to set his poem “Erkönig.” The ballad had originally been written as a part of his 1782 *Die Fischerin*, and was meant to be a tale conveyed by the provincial character Dortchen. Goethe expressed a conviction that musical settings of his ballad should sacrifice potential theatrical finesse in order to better represent the simple nature of the character for which it was written. Simply put, he wanted tuneful, primarily strophic settings that, after a few stanzas of listening, the audience could easily be singing along to (Byrne 2004, 66).

This is perfectly exemplified in a Lied by one of the composers Goethe did accolade, Carl Friedrich Zelter. Zelter likely could not have written an overly complex setting of the poem had he tried. He was a self-taught pianist with little formal training and no special mark of brilliance, who spent his life composing naught but Lieder and church music (Moore 2012, 32-35). Within his “Erkönig,” the folk-inspired vocal line bounces along, arpeggiating the unembellished chords that are being plunked out in the piano accompaniment (“Gerard”). There is little that distinguishes the music from that of any other Lied he had written, which likely was not entirely unintentional. After all, Zelter believed wholeheartedly in the primacy of the text in song composition, which surely stroked Goethe’s ego. Zelter himself once expressed his compositional “conservatism,” directly acknowledging how different his Lied was from that of Schubert and Beethoven. And this approach certainly won Goethe’s praise — he was even invited to the poet’s home to give a private performance of

“Erkönig” and others of his Lieder born of Goethe’s texts (Moore 2012, 32-35).

That which Goethe had praised was far from that which Schubert had written. But then again, all of Schubert’s celebrated layers of musical depth would not have been possible to incorporate, had his Lied relied on sheer simplicity and a strophic form. Schubert could not possibly have used his composition to explore and enhance the text, if he had just used the music to accompany it and show it off—if the same simple musical material had simultaneously served all of the poem’s stanzas.

And yet, choosing to liberate himself from the form was a bold decision for Schubert to make, especially having known how his two predecessors had been received. But while Schubert went against Goethe’s wishes, it was not done in spite or in rebellion. It is well known that Schubert wanted Goethe to like his piece. In fact, he even expressed a desire that Goethe might be able to help him gain the interest of a publisher (Kapilow 2011, 41-42). And so, we are left to see this act of boldness as Schubert taking ownership of the ballad—as him taking it out of the context in which it was written and using his music not just to match the text, but perhaps even to honestly try to enhance it. This choice represents Schubert stepping out of the composer’s bounds, and it is not the only example of this within “Erkönig.”

The inclusion of the horse’s footsteps is another instance of Schubert’s daring. While Goethe’s ballad does express the idea that the father is riding, the horse is by no means a principal character. By making his hoof beats a constant in the song, Schubert turns the horse not just into a central character, but also into a highly functional character. And this unquestionably shifts the dynamic of Goethe’s ballad.

In this same sense, Schubert plays with the functional roles of the father and the son. Musicologist David Schroeder discusses this, highlighting that within Goethe’s poem and the legend upon which it was based, the anxiety and terror seems to be shared equally between the father and the son. In fact, the father is the first character to express concern in his entrance line, asking why the child hides his head. But Schubert, young at the time of composition, shifts all the terror and sympathy towards the

child. By having the child's vocal range slowly increase with his fear, without changing that of the father, he has given the child great control of the piece's overall mood—control that Schroeder argues the child's character did not have in the original text (27). This is yet another brave stylistic choice on Schubert's part.

To take such liberties was not expected of Lieder composers at the time, and it was ultimately done at the risk of rejection from the original poet. Ultimately, Goethe never embraced Schubert's setting of his text, as he had so hoped he would. He had heard it performed live on at least two occasions, but offered Schubert no praise. He did not help the younger man to find a publisher, and the personal copy of the manuscript that Schubert sent him was found unopened among his possessions at the time of his death. And while this must have been crushing for Schubert, to be discouraged by one he so admired, perhaps it was a good thing. Perhaps the very reasons why Goethe rejected Schubert's work are the same reasons why his "Erlkönig" ultimately garnered lasting fame and genre significance.

By approaching Goethe's poem in a way other than that which the poet sanctioned his friends to, and by approaching the Lied genre in a way other than that which had been established in the musical community, Schubert was creating a truly unique composition. This, combined with his sheer compositional cleverness and artistry, resulted in a piece that not only exuded greatness, but stood out in the sea of interpretations by other composers. And through the success of his "Erlkönig" and other works, Schubert helped change the standard of the genre, raising it from a simple style of writing tunes to an esteemed style of musical composition, all while respecting its roots. Thus, Schubert's "Erlkönig" not only set the standard for musical takes on Goethe's work, but it also helped set the standard for the new Lied: the Romantic Lied.

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PERMANENCY OF THE EPHEMERAL: REMBRANDT'S LATE DRYPOINTS OF JESUS' PASSION

THOMAS H. PRICE (CLA 2015)

Jan Bialostocki, a prominent Polish art historian, democratically described Rembrandt's late biblical prints as "concentrating on [an] inward experience" (Bialostocki 2013, 19). Produced in the 17th-century during the Dutch Golden Age, a time of both intense religious feeling and secular growth, Rembrandt's prints struck a chord between these competing notions. His late biblical prints contain small ephemeral scenes of human emotion, which are combined to create a larger scale study of a religious scene. Late in his career, Rembrandt, already experienced in producing biblical scenes, produced a number of drypoints concerning Jesus' presentation by Pilate and his subsequent death, drew upon past iterations of Jesus' Passion as well as Rembrandt's interest in religious art and human emotion. Rembrandt's *Christ Crucified between the Two Thieves (The Tree Crosses)* and *Christ Presented to the People*, are unique not only because he used different states of his prints to show specific aspects of the same scene, defining the changes primarily through narrative alterations, but also through changes in his artistic technique to create a scene increasingly based around emotion.

Ger Luijten paints a vivid picture of the artistic world in which Rembrandt lived and worked in his essay, "Rembrandt the Printmaker: the shaping of an *oeuvre*." Luijten begins by saying that a "seventeenth-century artist lived in a world full of prints. In many houses they hung on the walls, framed or pinned, and were stored in wrappers, folders, and—loose or pasted—in bound albums" (Bialostocki 1984, 19). Luijten described more than just the artist's environment, their homes and workshops littered with prints, and instead drew a parallel to 17th-century Dutch print culture as a whole. Prints, as Luijten hints here, were more than just small, affordable pieces of art in Dutch society, but were bought specifically because they offered religious introspection, studies of Dutch culture, or an examination of emotion. This multi-faceted print culture, then, is the world in which Rembrandt worked and lived. While the better part of Rembrandt's history

scenes are biblical studies, they mirror the multiple dimensions present in 17th-century Dutch prints (Durham.2004, 57). Biblical scenes are often grouped with mythological and historical subjects to form the category of “history.” Because biblical scenes are such a large part of the “history” category, there seems to be growing trend among scholars to include biblical scenes in their own category. This can be seen in Schwartz’s *The Rembrandt Book* (2006), as he has a chapter devoted to “Man and God”, placing Rembrandt’s religious works in their own chapter.

In the rich and multi-faceted religious landscape of the 17th-century Netherlands, Rembrandt created a unique representational language. John Durham, writing from a theological perspective with a specialization in the post-Reformation, unpacks the reasons behind Rembrandt’s unique depictions in his book, *The Biblical Rembrandt*. In a general sense, Durham argues that Rembrandt was not as religiously zealous as other artists of the time period were. Despite growing up in a religious household, Durham asserts that by “early adulthood, [Rembrandt] showed impatience with religious orthodoxy and pious stuffiness” (Durham 2004, 56). Durham does not assert that Rembrandt was not religious, but that he was frustrated with the rigidity of organized religion. Instead, as the title of the chapter, “Rembrandt’s Bible,” hints that Rembrandt’s faith was based upon a close study of the Bible. As such, this devotion led Rembrandt to derive his representations of biblical scenes from what Durham call “*his Bible*” (Durham 2004, 57). Durham continues by saying that “Rembrandt simply would not allow his access to Scripture to be limited by any set of restrictions, whether imposed by the history of art or by the dogmas of the theologians (Durham 2004, 57).

His assessment helps to decipher why Rembrandt chose such a unique representational style; simply put, he was not willing to allow his subject matter to be limited by convention or standardization. From a more holistic perspective, Rembrandt’s biblical scenes were a marked departure in both subject matter and style from older 16th-century depictions, such as the ones Luijten alludes to and that were part of Rembrandt’s personal collection. Furthermore, as Rembrandt’s scenes did not follow standard protestant representational guidelines, which were conservative in terms of visual iconography, his biblical scenes contained studies of emotion and the human condition.

Bialostocki draws upon this notion that Rembrandt's works provided detailed studies of human emotions in his article, "A New Look at Rembrandt Iconography." This discussion arises in his examination of how Rembrandt represented his subject matter. Bialostocki asserts that "Rembrandt could have expressed [emotional frames of mind] in various other ways, but they definitely crystallized in his imagination as concrete human situations," showing that Rembrandt depicted his religious scenes as more than just religious studies (Bialostocki 1984, 14). In contrast, Rembrandt's subject matter encouraged an emotional connection to the scene, which is initiated through a connection to the characters as human figures. This is further emphasized by Bialostocki when he says that Rembrandt's "interest in his later period," during which the two etchings discussed here were produced, "did not concern so much the narrative as the intense, intrinsically human experience" (Bialostocki 1984, 14). Bialostocki comes to the conclusion that while the biblical stories that Rembrandt included in these prints are important, the prints are relevant and resonant because they rely on human emotion.

While Rembrandt's etchings illustrate the shift in representation from the 16th- to the 17th- century, he still drew inspiration from his predecessors. As is asserted by Luijten, Rembrandt owned a large number of prints from which he drew inspiration, the bulk of which were from previous generations of artists. It was not their subject matter that Rembrandt was interested in as his "collection of prints and drawings focused squarely on the maker: he was interested in the artist rather than in the thematic category" (Luijten 2000, 11). Resolute on his own subject matter and not willing to follow the conventions of older artists, Rembrandt used many of these prints for inspiration regarding technique. Unlike the earlier artists, who used intaglio techniques such as engraving and etching, Rembrandt produced both *Christ Presented to the People* and *The Three Crosses* purely in drypoint. For the remainder of the essay I refer to *Christ Crucified between the Two Crosses (The Three Crosses)* simply as *The Three Crosses*. Unlike etching, which utilizes both a ground and an acid bath, drypoint is simply the incising of lines into a metal plate, which is then inked and pressed (Ward 2008). Due to the fact that drypoint produces a softer effect than etching, since the acid does not bite the lines, Rembrandt

was able to use this technique to create subtle effects. This is reinforced by Christopher White in his book *Rembrandt as an Etcher; A Study of the Artist at Work*, when he notes that “held vertically, the resulting line was reasonably clean, but at an angle the point threw up the characteristic burr which could be either scraped away or retained to create dark accents of tone (White 1999, 12). By using drypoint in this way, Rembrandt was able to create a subtlety in his works, adding regions of light and shadow that more closely resembled paintings than earlier works had. By using drypoint in this manner, Rembrandt was able to add increased technical detail and visual interest to his works.

Two of Rembrandt’s drypoints, *The Three Crosses* (1653), and *Christ Presented to the People* (1665), can be read in a number of ways, including as a religious progression. When read in this manner, Rembrandt’s focus on religious significance and narrative are used to draw emotional significance. The first printed state of both of these prints provided a basic iteration of the scene rather than a focused view a specific part of the narrative. While Rembrandt most likely did not rely solely on biblical text to realize these scenes, a sentiment that is shared by Christopher White in his book *Rembrandt as an Etcher; A Study of the Artist at Work*, Rembrandt developed his imagery for *The Three Crosses* primarily from the Gospels of either Matthew or Luke (White 1999, 78).¹ In this state of the print Rembrandt included almost the full cast of characters that appear in the Gospel (White 1999, 79). As can be seen in Figure 1, the two thieves hang on their respective crosses, flanking Jesus; the light and shadow covering their bodies differentiates the thief who mocked Jesus from the second who sought forgiveness. Mary Magdalene clutches the cross directly below Jesus’ feet as John, standing left of her, throws up his hands in emotional agony. Below him lies Mary, who has fainted. The two figures below Jesus who are walking away from the scene, backlit from the light on the ground, can be identified as Nicodemus and Joseph of Arimathea, most likely heading to Pilate to obtain permission to bury Jesus before the Sabbath. Nicodemus was a Jewish Pharisee who is seen occasionally throughout the Gospels learning from Jesus under the cover of night. Joseph of Arimathea

¹ It is unclear why White has omitted Mark’s Gospel as a possible source of inspiration, as the text differs from Matthew or Luke’s Gospel by only a small amount. John’s Gospel however, is written in a much different manner.

is also commonly believed to be a Jewish official. He willingly gave a tomb he owned to the Apostles in order to bury Jesus. To the left is Simon of Cyrene being helped away by his friends, overcome by emotion and exhaustion from having carried Jesus' cross. Kneeling below the soldiers on horseback is the centurion who exclaimed that Jesus was the son of God, whose relatively dark form provides a point of contrast to the lightly etched soldiers illuminated from above (Luke 23:47, New Revised Standard Version). White notes, concerning his figure, that the "crucial episode in the print is the conversion of the centurion," who "raises his arms in an act of respect and obeisance" (White 1999, 79). His presence, more so than any of the other figures in the scene, help define its general message of salvation, in contrast to the kneeling figure of the centurion with the dead Christ. This is a common interpretation of this scene: that the first state of this print (and the second, which is virtually the same) depicts the moment of Jesus' death. White argues this in his analysis of this work, as well as Holm Bevers in the book *Rembrandt: the Master & his Workshop, Drawings and Etchings*.

Rembrandt followed a similar structure in the first state of *Christ Presented to the People*, using a similar setting and set of characters to draw significance from the scene. Rembrandt utilized somewhat vague architecture to give his print a sense of place [Figure 2]. The façade of the building in the upper left hand corner is particularly well defined, showing two open windows, along with some architectural flourishes set beside them. This dark and heavy, yet delicately defined space is juxtaposed with the façade at the right of the print. Using only a few perpendicular lines to outline the rest of the building, Rembrandt etched one thick flourish to the top of the print to imply an upper story to the foreshortened building at the extreme right. This contrasting sense of place serves a variety of functions, allowing the viewer to connect with the scene by placing it in modern context via the modern architecture. The architecture also adds an oppressive heaviness, especially in later states of the print, as well as drawing the viewer's eyes to the figures scattered around the sides of the print, subtly implying that the setting plays a subsidiary function to the characters (Welzel 1991, 274; White 1999, 99). The main drama of the scene played out in the middle of the print with the ancillary figures appearing around the sides. Lightly etched in front of the black entrance into the building, Pilate,

identifiable by his fine clothes, appears right at the moment he asks the crowd if they want Jesus released, holding his hand up in gesture. Pilate's dress is very interesting in this scene since it appears to be a mix of foreign and European clothes meant for royalty. A large turban is placed upon his head, similar to his *Man in Oriental Costume*, placing him in the context of the eastern part of the Roman Empire. This is contrasted with what appears to be an ermine robe, the kind that appears in portraits of kings because it was fabulously expensive. Between the sad yet stoic Jesus stands Barabbas, his head bald and his face wrinkled and scarred, purposefully providing a foil to Jesus. The crowd below the dais, many of whom are highly animated with their hands in the air, shout their response back to Pilate, asking for the release of Barabbas. The bottom left of the print shows the Jewish priests, encouraging the crowd. Significantly, the boy to the left of the left-hand pedestal on the dais reveals the consequence of this scene, as he holds the water that Pilate would later wash himself in (White 1999, 99). Similar to *The Three Crosses*, Rembrandt developed significance in the early states of these two prints through his focus on the religious narrative he sought to portray, hinting at the subsequent crucifixion of Jesus through this narrative hint, and using the background to stimulate the atmosphere of the print.

After the first set of prints were made for each of these scenes, and after each subsequent set of prints were made, Rembrandt reworked the plates, strengthening the lines and making small changes throughout the work. It is not until the fourth state of *The Three Crosses* that Rembrandt made significant changes to the print, altering the narrative and creating a much darker, heavier scene [Figure 3]. There are a number of reasons why Rembrandt would have made such drastic changes to the scene, some of which are technical in nature, and while they are not quite as important as the change in narrative structure they still represent a significant part of the story of these prints. By the time Rembrandt was ready to begin working on a fourth state for this print, the plate had already withstood at least 43 printings from the previous three states, a substantial number considering the print was done only in drypoint (Hinterding 2001, 303). While Rembrandt's exact procedures for reworking this plate are contested by some authors, Erik Hinterding, in his book *Rembrandt the Printmaker*, expressed the sentiment that Rembrandt only lightly burnished the plate before etching in the

new scene, allowing just the lines themselves to “[conceal] the remnants of the earlier work as far as possible” (Hinterding 2001, 303).² This is particularly noticeable on the left side of the print, where the throngs of onlookers have been replaced by a somewhat amorphous blackness. Technical changes such as this one, which resulted in the creation of a very dark and ominous scene, point to a change in the focus of the narrative and the significance of the scene.

The changes that Rembrandt drafted in the fourth state of *The Three Crosses* show much more than a simplified scene with many of the figures removed. Instead, this highly focused scene represents a specific narrative of Jesus’ death that Holm Bevers, analyzing this work in the catalogue to *Rembrandt: the Master & his Workshop, Drawings and Prints* identifies as “the dying Christ, rather than Christ who has just died” in the previous states of this print (Bevers 266).²⁵ Analyzing the change in figures and their representation in this state unpacks this print’s new identity. Jesus is the only figure whose body escaped the permeating darkness inherent in the fourth state; his body is illuminated by heavenly light, alluding to his divinity and the salvation his death and resurrection brings. Interestingly, this is not as clear in other prints of this state. Rembrandt inked the plate heavily in this printing, using the ink to carefully render deeper pockets of light and shadow. In this way Rembrandt re-emphasized the fact that Jesus is the main focal point of the print. Furthermore, Rembrandt utilized the chance to re-draw the print to subtly change Jesus’ face so that his “eyes and mouth become more prominent, so that they now convey a much greater sense of sorrow and suffering than before” [Figure 4] (White 1999, 97). Jesus’ gaze was further enhanced by the lightening of his beard which redirects the viewer’s attention up to his eyes and makes the shadows there more noticeable. The deep sense of sorrow and suffering portrayed in Jesus’ face echoes throughout the rest of the print. The two thieves, dying on their respective crosses, still flank Jesus, yet their personae seem to be reversed. In the first,

² Hinterding explains how other scholars believe that the plate was highly burnished before Rembrandt began working on the fourth state, but he counteracts this by pointing out that parts of the old scene can still be seen underneath. Furthermore, the fact that much of the print was etching over an old scene gives a good reason on why the print itself is so dark.

second, and third states of this print, the thief on the left was covered in darkness. However, this band of darkness shifts to the thief on the right in this print. The reason for this is not totally clear. There is no mention in any of the Gospel's of which thief was saved and which was not, which consequently hints that Rembrandt did this for formal reasons. By adding a heaving band of darkness along the right hand side, Rembrandt was able to bring the shadowy figures of John and Mary out ever so slightly more. The figures of John and Mary, between Jesus and the right-hand thief, have not significantly changed, but Rembrandt has added deep pockets of shadow around them to change their emotional response. Cast in a fuzzy gray light with his arms outstretched, John's melancholy face, as Bevers describes, looks up to heaven "beseeching" God (Bevers 266). Directly below him, Mary lies on the ground, deep in shadow, her mouth agape as she weeps for the dying Christ. Standing directly in front the thief on the left is a somewhat mysterious man on horseback, whose large hat and erect posture, as well as the pike he holds in his hand suggest he is some kind of a civic leader, representing secular power. Bevers also suggests that this could be Pilate, drawing a connection between the heightened emphasis on John and John's repetition of Pilate's presence in his Gospel (Bevers 266). It seems probable that this is in fact Pilate, but there is a lack of conclusive evidence to support this conjecture. This Pilate does look similar to Pilate in *Christ Presented to the People* with the large hat (or Turban) and the pike, but it is not clear if this state was made before or after *Christ Presented*.

The figures that Rembrandt did not include in this state also play a large role in changing the narrative and tone of the print. Many of the mourners on the lower left side of the print are gone in the fourth state, creating a more intimate setting. More notably, Simon of Cyrene no longer stands among the crowd. Rembrandt deviated from the Bible passage, ever so lightly, in order to have the scene focus on the dying Jesus, rather than having the entire narrative focus on his death. Also, one of the most important characters from the first three states, the centurion who falls to his knees after Jesus dies, is noticeably absent from this state. In the earlier states of this print Rembrandt included this character to show the significance of the scene and have the viewer relate to his experience. However, in this state, the viewer is left without that connection to the scene and is forced to dwell

on Jesus' dying figure. The more melancholy tone of this state is enhanced by Rembrandt's physical reworking of the plate, which created a much darker tone primarily through an extensive use of drypoint lines. Other authors, such as White, also argue that burin was used in this scene to create some of the shadowy effect such as the area beneath Christ's hand on the right side of the print. As White contends, this has an important bearing on the narrative, adding to the somber tone and reinforcing "the Evangelist's description of 'darkness over the earth' during the three hours Christ lay dying on the cross (White 1999, 87). This darkness has a tangible form over much of the print, brought to life through extensive hatching and crosshatching. Unlike the earlier states, very little of the fourth state is left unmarked; even much of the light coming from above Jesus is much more tangible here. Rembrandt used this to create the shadows in which he places the majority of his characters, using the ethereal lighting to give impressions of their faces and forms. Furthermore, the central triangle of the print, extending down from above Jesus to encompass the two thieves and all of the characters in front of them [Figure 1] is greatly diminished here, adding drama to the print and drawing the viewer in for a more personal, private scene. In doing so, Rembrandt created an intimate scene that focused less on characters and their implied actions and more on their emotional response to the event taking place, relying on form and line to help convey this.

Rembrandt used other techniques beyond restructuring the narrative of the scene, such as the careful inclusion of allusions and symbols, to add depth and significance to the prints while increasingly relying on his formal technique. This is especially apparent in the later of the two prints, *Christ Presented to the People*. There are several allegorical figures placed throughout the different states of this print, the most mysterious of which is the bust of bearded, morose-looking man who emerges from an archway between two larger arches [Figure 5] (Hinterding 2001, 320). The exact nature of this figure has been greatly debated in the literature surrounding this print, but there is a general consensus among scholars that it represents some type of river god (Hinterding 2001, 320). The mystery of its inclusion, however, only truly comes to fruition when the nature of its ephemerality is discussed. The seventh state of this print, in which the image of the 'river god' appears, occurs in only a handful of known prints

before it is mostly burnished away and covered with dark cross-hatching. It would be easy to say that Rembrandt quickly changed the plate because he of his unhappiness with the image, but further analysis highlights other possibilities for its elimination. Most other articles and catalogue entries that discuss this print merely mention that it is a mystery and no one has yet given a sound argument as to why it was included. Bevers, who argument I continue with, uses it to transition to a discussion of how the print challenges the viewer.

In the state prior to this, before the inclusion of the 'river god', Rembrandt excluded the jeering crowd in front of the dais, reducing the sense of depth in the print and drawing the viewer further in (Bevers 276). The greater intimacy of the scene has profound effects, increasing the "impression of restrained action" and concentrating the scene on Jesus and Pilate (Bevers 276). Unlike the emotional response in the fourth state of *The Three Crosses*, this later state draws out the emotion of the characters by freezing the scene and drawing the viewer in, adding a confrontational element to the print. Furthermore, as much as this print addressed Jesus' public condemnation, Rembrandt also focused on Pilate and the tough decision he was forced to make in an attempt to make the viewer identify with his character.

Rembrandt made use of a second set of allegorical figures in *Christ Presented to the People*, adding another dimension to the tension between Pilate, Jesus, and Jesus' fate. Even at a cursory glance, a 17th-century Danish viewer would have been able to identify the main structure as a type of judicial building, which, Hinterding notes, brings "something of a topical flavor to the biblical scene" (Hinterding 2001, 317).³ Though understated, Hinterding 's comment hints at the fact that a seemingly modern judicial building would have allowed the viewer to better identify with the scene at hand. On the upper story of the building, the figures of Pilate and Jesus are flanked by female personifications of Justice, on the left, and Fortitude, on the right (Carroll 1981, 591). Instead of valiantly portraying their respective personifications on the building, though, both figures are marred and incomplete,

³ Margaret Deutch Carroll mentions this in her article, "Rembrandt as Meditational Printmaker", as well. Amsterdam built their town hall in 1655, the same year that this print was made, but as she rightly argues in one footnote there is most likely no direct connection between the two buildings, façade-wise.

purposefully changed from their usual representations. Above and to the left of Pilate, Justice stands on a pedestal holding a set of scales in her right hand [Figure 6]. However, her eyes are covered by a blindfold, symbolically not allowing her to correctly assess justice. Similarly, Fortitude stands on the opposite side of the entrance into the building; identifiable by the lion pelt she is wearing [Figure 7] (Carroll 1981, 591). She holds a club by her side, instead of the sword with which her personifications are normally associated, alluding to a distinct lack of fortitude among the characters.

This serves as another reminder of the dual focus of this scene which Margaret Deutsch Carroll, in her article “Rembrandt as Meditational Printmaker,” describes as inducing “the viewer to respond less to the pathos of Christ’s suffering than to the moral horror of the judicial action,” especially since it was Jesus’ fortitude that allowed him to bear Pilate’s questioning (Carroll 1981, 592). The absence of fortitude, then, is associated with Pilate as it becomes even more poignant in the later states of this print, no longer saying that the whole scene is occurring without justice or fortitude, but pointing more directly towards the actions of Pilate. As Rembrandt made the later states of this print he began to focus less on the larger story, similar to his approach in *The Three Crosses*, and focused more closely on certain characters, their emotions, and their attitudes.

The religious narratives that Rembrandt created in these two prints are drawn from biblical scenes, yet they use their own iconography and sets of symbols to develop the scenes in their subsequent states. By using these techniques to change the structure of the work and its corresponding story over time, Rembrandt seemingly followed a “sequence of narrative transformation,” which Carroll refers to as a “meditational progression,” common in concurrent Protestant devotional poetry, which represented a “progression from vivid physical description to intense spiritual abstraction” (Pericolo 2010, 617). This analysis of Rembrandt’s work, while needing qualification, presents a persuasive argument regarding the changing narrative. Carroll’s model of following a devotional progression based on Protestant spiritual meditations, however, is not entirely applicable to these prints. This issue is summarily addressed by Lorenzo Pericolo in his review of Shelley Perlove and Larry

Silver's book *Rembrandt's Faith: Church and Temple in the Dutch Golden Age*, in which he questions whether Rembrandt's "biblical representations, especially the etchings destined for a large audience, were truly valued for their religious discourse and not instead the originality and artistry of their inventions" (Pericolo 2010, 617). While Pericolo is too dismissive of religious interest in these works, he rightly addresses the fact that these were meant for a large audience which was comprised of more than just Protestants seeking devotional imagery.⁴ Rather than intending to complement Protestant meditative reflections, Rembrandt's prints were Bible-based works that focused on the emotional significance of the scene, or what Carroll refers to as their "intense spiritual abstraction." To this end, Rembrandt utilized more than just the "narrative transformation" which Carroll addresses, relying on his skill and technical virtuosity to help develop significance, emotion, the character's responses and how the viewer should interact with the print.

One of the ways that Rembrandt achieved this was through a careful use of space in the prints. More than just setting the scene, Rembrandt used space to qualify the narrative structure and its development by creating mood and atmosphere, allowing the viewer to have a closer interaction with the print. Rembrandt's creation of space was well defined in the print, *Christ Presented to the People* where he sets Pilate, Jesus, and the crowd in a square before a judicial building. However, this setting was not an original creation of Rembrandt's, but instead was drawn from Lucas van Leyden's 1510 print, *Christ shown to the people* [Figure 8] (Hinterding 2001, 317). Rembrandt's work bears a close resemblance to van Leyden's earlier rendition of this biblical scene, especially if Rembrandt's print is thought of as being in reverse, since the print itself is a mirror image of the etching on the plate. A crowd is gathered before the dais in the midst of a courtyard with buildings framing much of the scene. What is highly significant is how Rembrandt's scene differs from

⁴ Somewhat ironically, it is Perlove in her article "Rembrandt and the Dutch Catholics" who shows that there were many Catholics living in Amsterdam at the time as well. Furthermore, while it is arguable that these were meant for a mass audience, considering that many were printed on much more expensive Asian papers or on vellum, others were printed on cheaper white paper. Also, there were many prints produced of both of these works.

van Leyden's. Rather than having Jesus and the corresponding characters almost lost in the large square, as in van Leyden's print, Rembrandt enclosed the scene into a courtyard, creating "a claustrophobic atmosphere" through the "oppressively heavy architecture" (White 1999, 100). The viewer is forced to focus upon Jesus and Pilate, who are set almost directly in the middle of the print, as well as the characters and events located in the print's periphery. As previously mentioned, the feeling of intimacy is further enhanced, when the crowd in front of the dais is removed, allowing Rembrandt to add weight to the print without needing to add copious hatching, which would have made the print overly dark.

Rembrandt employed a similar approach in *The Three Crosses*, using light and dark to define the space, a hilltop outside of Jerusalem, instead of using physical structures. The print, throughout its states, is surrounded on either side by a pervasive darkness, cutting the viewer off from anything but the subject at hand. Though the absence of a view of Jerusalem in the background may seem odd, the sense of isolation that this instills is deliberate. White comments that "We are far from habitation", effectively implying that this was a deliberate choice by Rembrandt (White 1999, 79). Rembrandt used the difference between light and dark to define space in the rest of the print too, doing so especially clearly in the first state [Figure 1]. The only light source in the print is a divine light which emanates from directly above Jesus, casting its rays in a triangular formation down upon all of the figures. This not only emphasizes some of the figures, particularly Jesus, as well as the centurion below him, but it also orients the viewer's eyes upon Jesus, just as all of the other figures look up at him. Furthermore, the light in this state gives the illusion of depth (White 1999, 79). Once the light is cast upon the ground, it creates shadows among the rocks and crags as the space descends past Joseph of Arimathea and Nicodemus and towards the viewer. This state uses light and dark in a very holistic way, casting the figures and the space in a dramatic light representing here not only the darkness of Jesus' death, but hope and salvation in how the light streams from above.

Furthermore, Rembrandt used light and dark in this print to differentiate the moods between the different states, specifically

between states I and IV [Figure 3]. Unlike the swaths of light and dark in the first state, which pour over most of the figures, in the fourth state the light only loosely disseminates in a triangular pattern. Now, soft pockets of light that cover them only define the figures, as the darkness mirroring the biblical passage covers the print. The veritable absence of light has another effect upon the structure of the piece. Unlike the earlier states, the composition here is “starkly vertical and horizontal with none of the previous illusion of depth” (White 1999, 87). There is very little light that falls down upon the ground or the figures, making it difficult to separate the foreground from the background. Rembrandt presented a much more closed scene in the fourth state, reflecting the introspective nature of this state as the characters, as well as the viewer, contemplate the dying Jesus. The change of mood from the first state to the fourth state in *The Three Crosses* is one representation of the increasing intimacy these two prints portray as they move toward their later states. Rembrandt used space in the two prints not only to complement the narrative changes, but also to change the space in later states, drawing the viewer into the print.

An analysis of how Rembrandt used various techniques in his prints inevitably distinct air of exclusivity around the prints, resulting in higher prices. Rembrandt’s choice of drypoint as a medium was more carefully planned than this, though. Fully aware of the rich tonality of the lines that drypoint creates. Rembrandt purposefully exploited this to create the shadowy and undefined quality that can be seen in these two prints. Rembrandt’s *The Three Crosses* displays this well [Figure 1]. In the first state of this print Rembrandt merely outlined of the figures of John, Mary, and some of the other women standing below Jesus, yet there is still a defined texture to their forms, part of which stems from the thicker lines which make up their bodies. This is especially apparent when compared to the very fine lines in van Leyden’s engraving [Figure 8]. Also visible in the first state of *The Three Crosses*, the lines of light stemming from above Jesus’ head appear almost full and resonant, not only because of their close proximity to one another, but also from the more jagged line left behind during the drypoint process. Ultimately, Rembrandt used drypoint to achieve this quick, shadowy appearance which White goes on to describe as “painterly,” giving the effect that the scene itself is in shadow, if the scene itself were fleeting (White 1999, 79).

Rembrandt's use of drypoint is compounded by the different papers and inking techniques that he utilized during the printing of both of these scenes, which allowed him to create a wide variety of looks without needing to change the plate itself. Another print of the first state of *The Three Crosses* provides a good example [Figure 9]. Printed on vellum, the print retains its yellowish surface tone, as well as the fuzzy quality prevalent around the sides of print due to a heavy inking of the plate. This technique is also referred to as plate tone. Papers such as this, which included various types of oriental papers that Rembrandt also utilized, were used mainly because they were less absorbent than typical white paper and were better suited to "spreading the tone and blending more harmoniously on the plate", giving them "softer, richer effects" (White 1999, 10). This effect can be seen, once again, in the rays of light streaming down from above Jesus. Compared to the lines in Figure 1, the lines in this print are much more thick and feathery. The effects of the heavier inking can be seen here as well. While the middle of the plate seems to have been wiped almost as much as in Figure 1, the sides of the print are much darker. As can be seen in Figure 1, a small bush stands to the right of Mary, but in this version of the print the bush is merely a dark mass. These two effects have a drastic impact on the print. While the scene is the same as that in Figure 1, the darker tone in this printing gives it a much more melancholy mood. The tone quality of this piece reflects the painterly technique that Rembrandt used for these prints. Rembrandt employed a great number of visual techniques in these prints, creating a sense of intimacy as he progressively drew the viewer into the print, and affecting the mood of the piece with his use of space and the tone quality he created.

When introducing Rembrandt's *Christ Crucified between the Two Thieves (The Three Crosses)*, White pinpoints this print, as well as the later *Christ Presented to the People*, as representing the culmination of Rembrandt's print oeuvre. He proclaims that the two prints "conjure an expressiveness and monumentality out of the medium which could lead no further. They have all the majesty of his latest drawings expressed in a similar personal language" (White 1999, 77). Without being longwinded or defending his subjective statement, White succinctly summarizes the mastery of these prints. Over the

course of the five states of *The Three Crosses* and eight states of *Christ Presented to the People*, Rembrandt portrayed multiple scenes regarding Jesus' Passion and death, and as Rembrandt etched the later states of these prints he produced more focused, refined versions of the narrative he was transcribing, highlighting certain elements. Furthermore, Rembrandt used printing techniques to complement these changes, creating mood and helping the viewer assess and reassess the scene at hand. However, these variations do much more than tell a story. Rembrandt used the different subsequent states of his prints to fully describe the scene, addressing the states as facets of the narrative out of which he could draw significance by making the series increasingly based upon emotion, both those of the characters and those the viewer should feel in responses. Over the course of the states the narrative slowly slips away, becoming less important and leaving the viewer not with action, but with figures fraught with emotion. A dichotomy arises from this; an image with sharp emotional resonance, drawing the viewer into the scene of Jesus' Passion, and an image cast in the shadowy light of ephemerality, taking one small, dynamic scene and etching into a piece of copper. What these prints illustrate is much more than an image of Jesus' presentation and his; it is an ephemeral fleeting powerful moment that has been pressed into permanency.

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APPENDIX

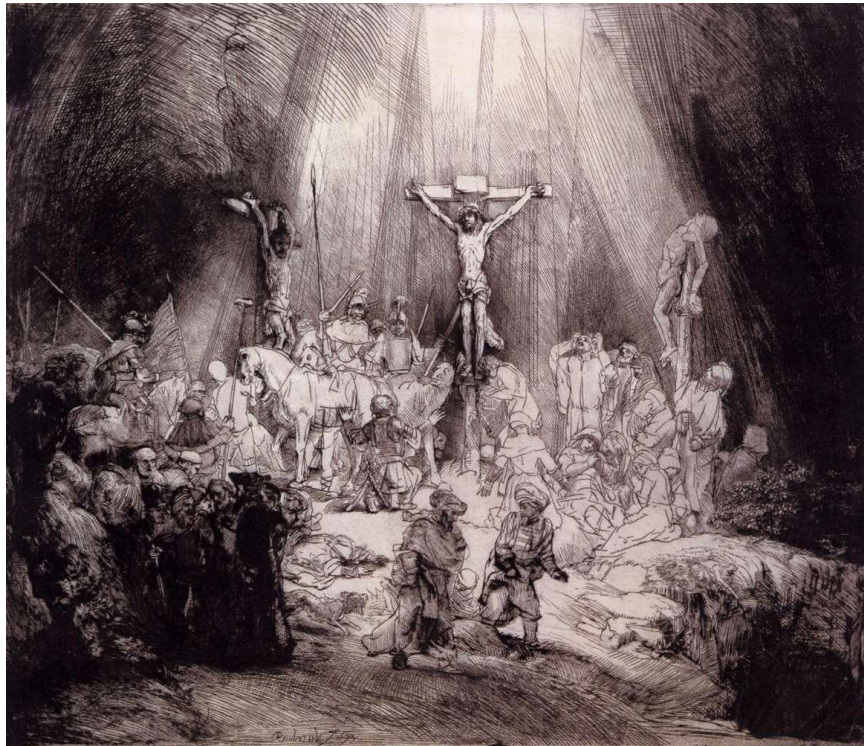


Figure 1: *Christ Crucified between the Two Thieves: The Three Crosses, III*, drypoint, 1653, The Metropolitan Museum of Art, Felix M. Warburg and Family, 1941. www.metmuseum.org.



Figure 2: Rembrandt, *Christ Presented to the People, I*, drypoint, 1655, St. Louis Art Museum.

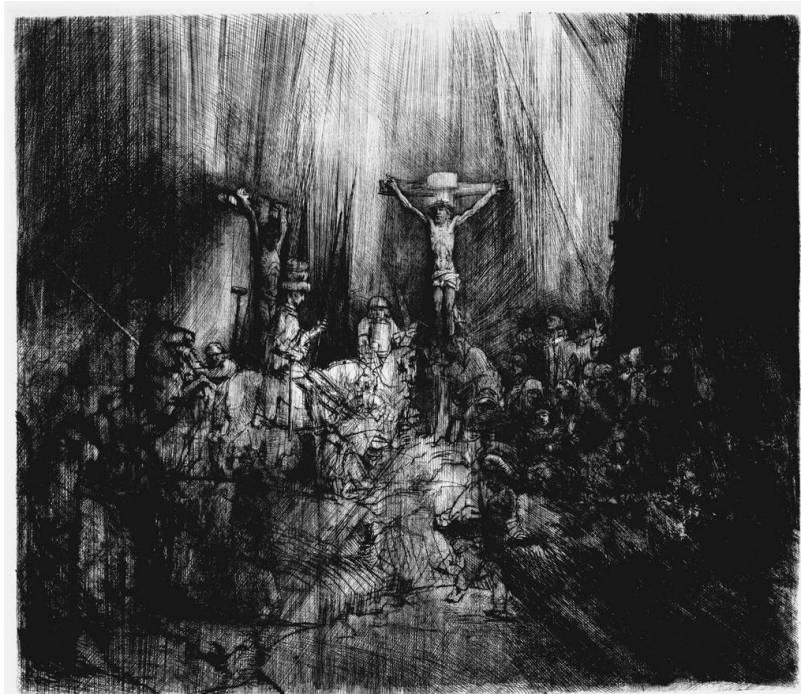


Figure 3: Rembrandt, *Christ Crucified between the Two Thieves: The Three Crosses, IV*, drypoint with scraping and plate tone, 1653, The Metropolitan Museum of Art, Felix M. Warburg and Family, 1941. www.metmuseum.org.

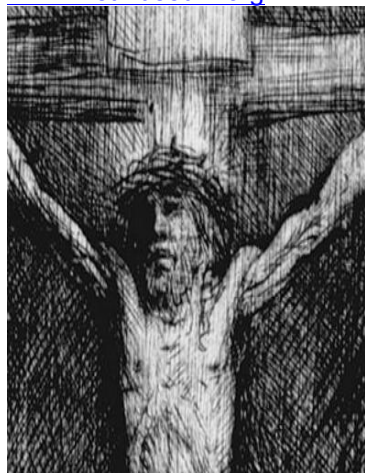


Figure 4: Detail, Rembrandt, *Christ Crucified between the Two Thieves: The Three Crosses, IV*, drypoint with scraping and plate tone, 1653 The Metropolitan Museum of Art, Felix M. Warburg and Family, 1941. www.metmuseum.org

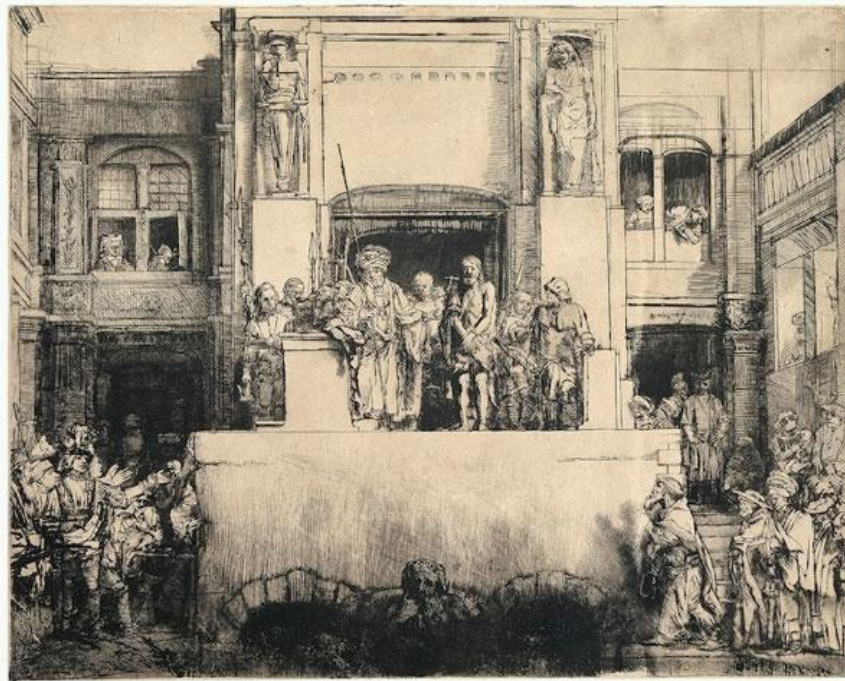


Figure 5: Rembrandt, *Christ Presented to the People*, state VII, drypoint, 1655, Rijksmuseum.



Figure 6: Detail, Rembrandt, *Christ Presented to the People*, I, drypoint, 1655, St. Louis Art Museum.



Figure 7: Detail, Rembrandt, *Christ Presented to the People*, I, drypoint, 1655, St. Louis Art Museum.



Figure 8: Lucas van Leyden, *Christ Presented to the People*, Engraving, 1510. The British Museum.



Figure 9: Rembrandt, *Christ Crucified between the Two Thieves: The Three Crosses*, I, drypoint on vellum, 1653, The Metropolitan Museum of Art, Felix M. Warburg and Family, 1941. www.metmuseum.org.

Cuando la justicia tiene la lengua atada: La barrera lingüística, el acceso al debido proceso y personas LEP durante procedimientos de deportación

MEGAN DAY (CLA 2014)

Uno de los componentes integrales en la identidad política e histórica de los Estados Unidos, y tal vez la fuente más grande del orgullo político estadounidense, es la Constitución de los Estados Unidos. Esta realidad no viene de la nada—dentro de este documento se encuentran los estándares y límites del gobierno, las libertades civiles personales y los derechos personales que han sobrevivido más de doscientos años y han sido el marco dentro de cual los Estados Unidos ha crecido. Aunque este documento ha servido como herramienta para defender derechos importantísimos para el funcionamiento y la seguridad del público estadounidense, los seres humanos en el gobierno y el público son sólo eso—humanos. Por eso, la implementación de estos derechos y libertades personales que la constitución establece no siempre ha sido ejecutada de la misma manera. Esta realidad ha sido el catalizador de grandes hitos de la historia de los EE.UU. como el movimiento de sufragio de las mujeres y el movimiento de derechos civiles. Para tener una sociedad civil activa y fuerte es imperativo reconocer que la evolución del papel de la constitución en la sociedad actual nunca debe estar estancada. Hace unas décadas el tema principal en el discurso acerca de la implementación igualitaria de los derechos constitucionales se trataba de los derechos de personas afroamericanas en los Estados Unidos. Hoy en día, uno de los temas más importantes en el campo político y social de los Estados Unidos es el tema de los derechos de los inmigrantes.

Cuando una persona indocumentada está detenida obligatoriamente durante procedimientos de deportación, esta persona enfrenta el gran reto de entender el complejo sistema legal de inmigración en los Estados Unidos. Estos retos se intensifican aun más con la barrera lingüística que enfrentan los detenidos que son considerados LEPs (*Limited English Proficiency*) o personas con competencia limitada en inglés. La situación de navegar el sistema legal de inmigración para estas

personas que no hablan nada de inglés o una cantidad limitada de inglés es muy difícil. Ellos tienen que navegar el sistema legal de inmigración con poco o nada de acceso a recursos o consejo legal en su lengua nativa. La situación es aun más grave para personas que son sometidas a detención obligatoria durante sus juicios de deportación, ya que éstas no tienen tantas oportunidades para obtener ayuda particular en sus lenguas nativas como alguien que no está detenido tendría. Esta población de detenidos enfrenta una situación muy particular porque, técnicamente, los procedimientos de deportación son de carácter civil y las personas que pasan por este sistema no disfrutan de tantas salvaguardias procesales como los que pasan por el sistema penal. Además, procesar casos de inmigración tiene su propio proceso legal—separado de cualquier otro tipo de caso civil o penal. Por lo demás, los casos de inmigración pueden implicar consecuencias mucho más serias que un caso civil normal implicaría durante el juicio, tanto antes como después del juicio final. El debido proceso está establecido como algo necesario para la justicia en la Carta de Derechos y dice que una persona no debe ser privada de la vida, libertad, o propiedad sin el debido proceso de la ley. En casos de inmigración, la persona en cuestión pueda tener toda su vida, tal como la conoce, en riesgo. Si esta persona ha vivido en los EE.UU. por muchos años, sus propiedades, familia, amigos y raíces sociales en los EE.UU. se verán afectados. Entonces, teniendo todas estas cosas en cuenta, un juicio de inmigración es una situación mucho más grave que la situación que tendría una persona con otro cargo civil que no tuviera que ver con inmigración. En el caso *Pedilla v. Kentucky* la corte equiparó el prospecto de deportación como algo tan serio como un castigo penal (Frankel 99). Este es el punto donde las normas de las leyes criminales y civiles se enredan y la falta de salvaguardias procesales para personas LEP en procedimientos de deportación surge.

Los inmigrantes también tienen el derecho al debido proceso durante sus juicios. Parte del debido proceso en un juicio es que la persona en cuestión tiene el derecho "to be heard upon the questions involving [the] right to be and remain in the United States" (Pitsker 3). Sin embargo, muchos inmigrantes nunca tienen la oportunidad de ser "oídos" en sus juicios porque ni pueden entender el contexto en que se defienden ni tienen las capacidades y recursos lingüísticos para comunicar su defensa a

la corte. Aun inmigrantes que no están detenidos obligatoriamente no siempre reciben el debido proceso durante sus juicios. Hay una gran falta de salvaguardias para asegurar una interpretación de alta calidad durante sus procedimientos de deportación. Aunque, por razones obvias, en el contexto de juicios de inmigración hay muchas personas que no hablan el inglés como su primera lengua, hay casi una inexistencia de salvaguardias en la ley inmigratoria para asegurar que personas no sean deportadas sin razón debido a interpretaciones equivocadas. La ley inmigratoria y las normas que gobiernan las buenas prácticas de la corte inmigratoria se hacen la vista gorda en cuanto a los derechos lingüísticos.

En este artículo argumento que la falta de acceso a recursos para sobrepasar esta barrera lingüística actúa como un impedimento para que el detenido tenga acceso al debido proceso. Este impedimento puede ser aliviado con la provisión del requisito de abogados designados para personas detenidas obligatoriamente y acceso a mejores intérpretes durante procedimientos judiciales en la lengua que el detenido habla. También, investigo la falta de reconocimiento general sobre los derechos lingüísticos en la ley estadounidense y los casos de otras poblaciones vulnerables que pueden ser negadas el debido proceso debido a su incapacidad de “ser oído” en sus juicios y cómo estas situaciones se relacionan a la situación de las personas LEP.

Los derechos que tienen los inmigrantes indocumentados según la constitución

En la constitución, la Carta de Derechos delinea los derechos que tienen personas que están en los EE.UU. Las enmiendas 5^o y 14^o de esta carta de derechos son las que explícitamente declaran el derecho al debido proceso durante un juicio. Las dos enmiendas dicen que ninguna persona debe ser privada de vida, libertad o propiedad sin el debido proceso de la ley (Fifth, 14th). No queda estrictamente claro quiénes son las “personas” protegidas por estas enmiendas. Sin embargo, en el caso *Yamataya v. Fisher* de 1903, la Corte Suprema de los EE.UU. hizo claro que no es legal deportar a una persona indocumentada sin un juicio que siga todas las reglas del debido proceso establecidas en la Carta de Derechos en la constitución. Esto es porque el debido proceso incluye el derecho "to be heard

upon the questions involving [the] right to be and remain in the United States" (Pitsker 3). Esto estableció que la persona en cuestión tiene el derecho de ser oído en cuestiones sobre el derecho de permanecer en los EE.UU. Este fue un caso histórico que concierne el proceso de establecer que las personas en los EE.UU. sin documentación, u otras personas no-ciudadanos, también disfrutaban de los derechos constitucionales relacionados al proceso judicial. Además, la jurisprudencia de la Corte Suprema moderna ha clarificado que aun personas que tienen la presencia "ilegal, involuntaria o transitorio" también tienen la protección de privación de "vida, libertad, o propiedad sin el debido proceso de la ley" (Pitsker 3). Es clave que quienes entran en procedimientos de deportación entiendan y valoren este derecho.

El debido proceso en procedimientos de deportación

Para medir si el debido proceso ha sido proporcionado durante un juicio se usa la prueba de *Mathews v. Eldridge*. Esta prueba pesa tres factores y sirve como herramienta de la corte para obtener una referencia estándar para probar si el debido proceso ha sido puesto en riesgo durante un juicio. Estos tres factores son:

(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. (Pitsker 3)

Los primeros dos factores son extremadamente importantes para asegurar el debido proceso durante un juicio y evaluar si el sistema actual de salvaguardias procesales son suficientes. El primer factor dice que el interés privado que sería afectado por la acción oficial tiene que ser tomado en cuenta durante un juicio. Esto da un poco de espacio para reconocer las diferentes consecuencias que tendría el mismo juicio de deportación para una persona que entró en el país muy recientemente o para alguien que ha vivido en los EE.UU. por muchos años.

A veces, alguien que no conoce muy bien el sistema inmigratorio piensa que personas en procedimientos de deportación siempre son inmigrantes sin documentación. Sin

embargo, es mucho más complejo que eso. Para personas que han sido admitidas a los EE.UU. como Residentes Permanentes Legales (LPR) una sola mala jugada con la ley puede desencadenar procedimientos de deportación. El siguiente ejemplo muestra que ciertas acciones que no son muy graves pueden tener grandes consecuencias. En Nueva York, si una persona salta un torniquete del metro sin pagar, puede ser arrestado. Aunque esta acción probablemente no resultaría en la persona durmiendo en la cárcel ni una sola noche, este arresto podría poner en movimiento procedimientos de deportación (Steering 1). La imagen que viene a la mente de un criminal en procedimientos de deportación es la de una persona amenazante al público. Alguien que no paga por una vuelta en el metro no es esta persona. Sin embargo, la ley no permite mucha discreción en decidir si esta persona debe ser deportada o si debe ser detenida antes de su juicio de deportación. Eso significa que una persona así puede ser detenida durante meses antes y después de su orden final de deportación. Ante los ojos de la ley, no hay distinción entre una persona que no paga el billete para el metro y alguien que ha cometido un crimen grave. En el caso de estas dos personas los “intereses particulares” van a ser afectados en la misma proporción aunque una de estas tal vez merezca un tratamiento más riguroso que la otra.

El segundo factor de *Mathews v. Eldridge* se trata de la privación de los intereses particulares y el debido proceso en el juicio debido a la falta de salvaguardias procesales. Esto es muy importante para saber si la persona va a experimentar privación de sus intereses privados por culpa de la falta del debido proceso cuando no hay suficientes salvaguardias procesales. Este factor va a ser muy importante para ver las protecciones legales que existen (o no existen) y que tienen que ver con los derechos lingüísticos durante procedimientos de deportación. En las leyes que dictan la buena práctica en procedimientos de deportación, casi no hay salvaguardias para asegurar interpretación de alta calidad, por lo tanto es bastante obvio que hay espacio para más salvaguardias que protejan de privación errónea.

El derecho a Consejo Nombrado

En el caso *Gideon v. Wainwright* la corte decidió que es una “verdad obvia” que alguien que no tiene los recursos financieros para contratar a un abogado no se le pueda asegurar

un juicio imparcial durante un juicio criminal si no se le proporciona consejo legal (Pitsker 3). Sin embargo, esta herramienta del debido proceso de Consejo Nombrado no se proporciona en los casos civiles. Eso tiene sentido en casos civiles normales porque son de una naturaleza básica donde las consecuencias no son tan graves ni cambian fundamentalmente la vida de la persona en cuestión. Aquí es donde nos encontramos en una situación muy particular porque los juicios de inmigración siguen reglas de un tipo de ley civil. Sin embargo, las consecuencias que la decisión final de la corte trae son tan graves como las que podría traer un juicio criminal. Las decisiones de la corte en un juicio cambian la vida de la persona en cuestión de una manera fundamental y, muchas veces, muy negativa. La decisión del juez presidiendo el caso de *Aguilera-Enriquez v. INS* refleja este conflicto entre el proceso del juicio para inmigrantes y la ausencia del derecho a consejo nombrado. Según este juicio "The test for whether due process requires the appointment of counsel for an indigent alien is whether, in a given case, the assistance of counsel would be necessary to provide 'fundamental fairness the touchstone of due process'" (Aguilera-Enriquez). Esta cita explica que el consejo legal podría ser necesario para sostener el debido proceso durante un juicio de inmigración. Explica que en algunos casos de inmigración, el consejo designado por la corte podría ser clave para asegurar la justicia. Este juez reconoció que en ciertos juicios de inmigración, el consejo nombrado sería integral para el sostenimiento del debido proceso. Sin embargo, los jueces no tienen la opción de nombrar consejo legal durante un juicio de inmigración aunque lo consideren necesario para asegurar la justicia porque no hay ningún mecanismo para darles el poder necesario para tomar esta decisión.

La falta del derecho a Consejo Nombrado durante procedimientos de deportación es especialmente problemática para los que están en detención obligatoria porque todos tienen algún tipo de antecedente penal. Debido a que todos los que califican para detención obligatoria ya han sido condenados con un cargo criminal de "felonía agravada" o más grave, este récord será parte de los factores que la corte toma en cuenta para la decisión final de sus habilidades de permanecer en el país. Este factor de cargos criminales no solamente debe ser parte de los factores en la decisión final de la corte en cuestión de la

deportación, sino también debe ser un factor en la prueba de *Mathews v. Eldridge* para medir si esta persona ha recibido el debido proceso que merece.

El *Immigration Court Practice Manual*— manual que establece las buenas prácticas en una corte de inmigración— dice que la corte le proporciona al inmigrante una lista de abogados dispuestos a representar a inmigrantes por poco o ningún costo (Manual 19). Sin embargo, un estudio hecho en Nueva York encontró que el 60% de los inmigrantes detenidos obligatoriamente durante sus procedimientos de deportación tenían que representarse a ellos mismos, *pro se*, cuando se presentaron frente a la corte. De las personas que no fueron detenidas antes de su fecha de presentación en corte, solamente el 27% de ellos se representaron *pro se* (Noferi 76). Éstas son cifras preocupantes que nos muestran que aun en un lugar como Nueva York donde hay bastantes abogados de inmigración, todavía los que están detenidos antes de su fecha de corte tienen menos que el 50% de probabilidad de encontrar consejo y representación judicial. El problema es aun más complicado con el hecho de que los centros de detención muchas veces están ubicados en áreas rurales donde es más difícil encontrar un abogado de inmigración (American).

En la superficie, estas cifras muestran los retos que enfrenta cualquier inmigrante detenido obligatoriamente. Sin embargo, cuando se mezcla la barrera lingüística para las personas LEP con esta situación, se ve que esta población es aun más vulnerable de no recibir el debido proceso en su juicio porque un número desproporcionado de ellos van a tener que representarse *pro se*. Cuando alguien LEP intenta encontrar representación legal para su juicio mientras están en detención, esto puede ser casi imposible. Si esta persona termina detenida en unos de los centros de deportación en zonas rurales, esa persona ha sido separada de sus amigos y familiares que le podrían ayudar a encontrar un abogado y ellos mismos están lejos de centros urbanos donde habría más abogados, y así la oportunidad de encontrar uno que hable su lengua nativa. También, si la persona habla una lengua no muy común, como una lengua indígena de un país latinoamericano, probablemente tendrán que encontrar un abogado que tal vez no hable su lengua, y aparte de eso, contratar a un intérprete para ayudarles a

comunicarse. En esta situación es también casi imposible encontrar estos recursos si la persona ha sido detenida lejos de un centro urbano y de sus familiares que le podrían ayudar. El primer factor en la prueba de *Mathiews v. Eldridge* es “the private interest that will be affected by the official action.” Pues, un juicio final de deportación tiene consecuencias tan graves como un juicio penal implicaría. Igual que un cargo criminal puede separar una persona de su familia y de la vida que ha creado para sí mismo por estar encarcelada durante un tiempo largo, la deportación hace la misma cosa pero en vez de ser encarcelada, la persona es deportada a otro país. Es una injusticia no tener un mecanismo en juicios de deportación que permita que el juez proporcione consejo nombrado si sea necesario para asegurar el debido proceso.

El gobierno estadounidense declara la manera en que les ayuda a personas detenidas a encontrar consejo legal en el *Immigration Court Practice Manual*. La única ayuda que proporciona el gobierno, o por lo menos dice que proporciona, es una lista de abogados. Sin embargo, las cifras nos dicen que esta supuesta lista de abogados no es suficiente para asegurar acceso al proceso legal necesario. La Orden Ejecutiva 13166 dicta que cada agencia federal: “examine the services it provides and develop and implement a system by which [limited English proficient] LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency” (Exec. Order 4). Los mecanismos para ayudar a las personas LEP en cortes de inmigración fueron examinados por la División de Derechos Civiles del gobierno estadounidense, la cual decidió que los LEP recibían suficiente ayuda para satisfacer la Orden Ejecutiva 13166 (Exec. Order 4). Sin embargo, esta evaluación por la División de Derechos Civiles fue una examinación interna ya que fue hecho por parte del mismo gobierno y no por una organización imparcial. La situación es que no hay suficientes mecanismos para asegurar que las personas LEP verdaderamente puedan acceder en una manera significativa los servicios del gobierno y las agencias asociadas con él de forma adecuada. Además, esta Orden Ejecutiva explícitamente clarificó que esa orden no es una ley y que, por lo tanto, no se podría usarla para defender un caso legal (Exec. Order 6). Eso significa que uno de los pocos documentos que reconocen el problema del acceso a información para personas

LEP y pide a agencias federales que mejoren el acceso para personas LEP, en realidad no se tiene que poner en vigor.

Esta necesidad de representación durante los procedimientos de deportación está estrictamente vinculada con el acceso al debido proceso durante un juicio de deportación porque, para personas LEP el abogado puede ser la única manera para poder ejercitar su derecho a estar "oído" "upon the questions involving [the] right to be and remain in the United States." Incluso una persona que se representa *pro se* frente a la corte que tiene el conocimiento suficiente para comunicarse y entender lo que está pasando durante el juicio tal vez no va a hacer un argumento tan concreto como el que haría un abogado.

Over fifty years ago it was observed that in "many cases" a lawyer acting for an alien would prevent a deportation "which would have been an injustice but which the alien herself would have been powerless to stop." Since 1931 the law on deportation has not become simpler. With only a small degree of hyperbole, the immigration laws have been termed "second only to the Internal Revenue Code in complexity." A lawyer is often the only person who can thread the labyrinth. (Frankel 100)

Esta cita muestra que para personas que hablan inglés es casi imposible dominar las leyes de inmigración. Sin embargo, para proporcionar el beneficio de la duda, una persona que habla inglés tal vez tendría la oportunidad de verdaderamente presentar lo que quería para que la corte lo oyera. Por otro lado, una persona que tiene competencia limitada en inglés literalmente no podría ejercitar su derecho a ser oído durante su juicio solamente por la barrera lingüística. Esto combinado con la complejidad de la ley de inmigración lo haría prácticamente imposible. Si estas personas LEP tuvieran representación legal, en la mayoría de casos, sería suficiente para sobrepasar esta barrera lingüística porque el abogado le podría ayudar a entender lo que está pasando con su caso antes y durante el juicio y también presentar el argumento de la persona en cuestión cuando viene su oportunidad de presentar sus razones para que se le deba permitir permanecer en los EE.UU.

Así que ambos factores, la habilidad de una persona detenida obligatoriamente de encontrar un abogado de inmigración y la naturaleza esencial de representación legal para

un inmigrante LEP durante su juicio, se cruzan. Es esencial que las personas LEP tengan representación legal durante su juicio para poder sobrepasar la barrera lingüística y poder ser “oído” durante su juicio. Pero es improbable, si no imposible, que esta población LEP detenida obligatoriamente encuentre consejo legal, y así su derecho al debido proceso será intrínsecamente retenido.

Intérpretes y el debido proceso

El otro factor clave en asegurar el debido proceso durante un juicio es el acceso a un intérprete que hable la lengua de la persona en cuestión y que conozca el dialecto que use la persona lo suficiente para evitar traducciones inadecuadas. No hay un sistema de salvaguardia que sirva para detectar y corregir traducciones equivocadas, así que la mayoría del tiempo los errores ocurren sin llamar la atención de nadie (Shulman 1). Uno esperaría que estos errores no ocurrieran a menudo, sin embargo, la falta de intérpretes suficientemente capacitados ha influido más casos que podemos saber. En un juicio legal, cada palabra cuenta y la malinterpretación de solo una palabra puede significar un cambio de dirección en un juicio. Por ejemplo, hubo un caso de un intérprete que traducía incorrectamente la frase “ni tengo diez kilos” para un hombre durante su juicio. El hombre quería decir en su dialecto de español que no tenía ni diez centavos. Sin embargo, el intérprete lo tradujo literalmente y fue unas de las declaraciones claves en la decisión de la corte. Afortunadamente, alguien se dio cuenta en este caso y la sentencia fue anulada (Shulman 1).

Este hecho de que no hay un sistema de salvaguardia pone en cuestión si el sistema de interpretación durante juicios debilita el debido proceso durante un juicio según la prueba de *Mathiews v. Eldridge*. El segundo factor de medición en esta prueba es “The risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards” (Pitsker 3). El sistema actual de interpretación durante procedimientos de deportación no tiene ninguna forma de salvaguardia—la única estipulación en la INA (Immigration and Nationality Act o Acto de Inmigración y Nacionalidad) es que “Any person acting as an interpreter in a hearing shall swear or affirm to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath or

affirmation shall be required” (8 CFR parte 1003.22). Esta cita explica el único paso que un intérprete tiene que tomar en prometer la buena interpretación de los procedimientos. Este paso es que firmen un documento jurando que van a interpretar bien y adecuadamente. En el caso de que es un intérprete del gobierno, no tiene que firmar el documento.

La INA es la ley que gobierna toda la jurisdicción de procedimientos en las cortes de inmigración y la cita proporcionada aquí es la sección entera de la ley, 8 CFR parte 1003.22, que habla del proceso de interpretación durante un procedimiento. 8 CFR Parte 1003.22 pone toda la carga de asegurar que la interpretación está bien hecho en el intérprete. No hay ningún mecanismo de controlar la calidad de interpretación o reconocer una interpretación equivocada. Cuando este sistema sin salvaguardia se sopesa frente el segundo factor de la prueba de *Mathiews v. Eldridge*, se ve que hay una gran oportunidad de privación errónea del debido proceso con este sistema y que está directamente vinculada con la falta de salvaguardias procesales.

Unas de las cosas más sorprendentes que se hace obvio durante la investigación de las leyes que se tratan de procedimientos de deportación es la exclusión generalizada del factor lingüístico en el proceso legal de deportación. Debido a que el contexto de deportación automáticamente tiene que ver con personas que nacieron en otro país, uno pensaría que el factor de lenguas extranjeras tendría una gran parte en la manera en que la ley de inmigración esta formulada. Sin embargo, al leer la ley INA y el *Immigration Court Practice Manual* que dictan la ley y el procedimiento que usa la corte durante todos los procedimientos de deportación, parece que los legisladores casi se olvidaron del factor lingüístico al escribirlos. En cuestión de interpretación durante procedimientos de deportación, en 8 CFR parte 1003.22 el INA tiene una sola frase que menciona la interpretación (8 CFR parte 1003.22). El *Immigration Court Practice Manual* no elabora mucho más en esto—hay dos párrafos cortos clarificando que la corte proporcionará intérpretes al costo del gobierno si la persona no habla inglés y cuáles intérpretes se usan en la corte. Además, el lenguaje es muy vago: “In general, the Immigration Court endeavors to accommodate the language needs of all respondents and witnesses” (Manual 64). Ni lo hacen

suficientemente claro para asegurar que una persona que es LEP reciba un intérprete que hable la lengua nativa de la persona en cuestión.

Hubo un caso donde muchos trabajadores indocumentados fueron aprehendidos al mismo tiempo en una redada de Agriprocessors, Inc. y esas personas aprehendidas fueron proporcionadas intérpretes de inglés-español para sus juicios. Sin embargo, muchas de las personas aprehendidas no hablaban español sino la lengua indígena de sus países (Ackermann 1). La ironía de una situación así es que no es posible que las personas comuniquen que el intérprete no habla la lengua correcta porque el intérprete es la única herramienta que tienen para comunicación con los demás. Dentro del proceso actual, no existe ninguna salvaguardia procesal que asegure que situaciones como la de los trabajadores de Agriprocessors, Inc. no pase. Además, ni hay una herramienta procesal para evaluar si más situaciones así hayan ocurrido porque en transcripciones de procedimientos legales en la corte el transcriptor solamente escribe lo que se dice en inglés y solo denota "Interpreter: interpreting" durante todo el tiempo que el intérprete está hablando en otra lengua. Esto significa que nadie, ni los mismos abogados representando al demandante, pueden fijarse en que el intérprete comunicó durante un juicio.

Es sorprendente que no haya más historias de interpretaciones equivocadas en juicios de deportación. Pero tal vez este fenómeno no es una casualidad. Con esta situación de falta completa de salvaguardias para una interpretación adecuada durante juicios y el hecho que para una persona que no puede entender la ley inmigratoria debido a la barrera lingüística, hay una gran probabilidad de que no van a saber que una injusticia haya ocurrido. Una historia que encontré me hizo pensar que muchas de estas personas LEP nunca llegan a la corte para defenderse en lo absoluto. En el caso de un joven de diecinueve años en Texas, éste fue detenido por agentes de inmigración durante una parada de tráfico. Este joven fue un ciudadano de los EE.UU. pero no hablaba bien inglés porque se había mudado a los EE.UU. unos tres años antes. Aunque presentó documentos como su certificado de nacimiento estadounidense y tarjeta de seguro social, los agentes de inmigración no creyeron que era un ciudadano estadounidense porque no hablaba bien el inglés. Al

fin, este joven fue intimidado para que firmara un documento que inició su deportación inmediata a México (U.S. Citizen). Este es un ejemplo de los prejuicios y desventajas que sufre una persona LEP cuando su estatus legal está puesto en cuestión. Afortunadamente, la situación de este joven se arregló y regresó a EE.UU. Sin embargo, esta no ha sido la primera deportación de un ciudadano estadounidense debido a incapacidades lingüísticas (U.S. Citizen). Estas personas que no hablan bien el inglés no van a ser muy visibles porque probablemente no recibieron ayuda legal y fueron deportadas sin poder ser oídas en relación a su derecho a permanecer en los EE.UU.

Es claro que si se evalúa el sistema establecido en la INA y el manual de práctica para asegurar interpretación suficiente durante un juicio no tiene ni una salvaguardia. A pesar de este sistema, frente al segundo factor de la prueba de *Mathiews v. Eldridge* es obvio que es necesario crear un sistema de controles y equilibrios para eliminar parte de la carga de responsabilidad en el intérprete para prometer interpretación adecuada durante procedimientos de deportación. Es obvio que no hay suficientes salvaguardias para asegurar que no haya privación errónea del debido proceso e intereses particulares. Igualmente preocupante o quizás más son todas las personas que no tuvieron acceso a un intérprete para defenderse ante una corte de inmigración porque sus incapacidades lingüísticas fueron aprovechadas por las autoridades de inmigración y fueron deportados sin juicio. Esta falta de reconocimiento de los derechos lingüísticos ha creado un agujero negro por donde las personas pasan y nunca oímos de las injusticias que han experimentado.

Contextos lingüísticos similares en otras poblaciones vulnerables

La barrera lingüística que personas LEP enfrentan durante sus procedimientos legales no es única a esta población. La misma barrera lingüística se aplica a la población sorda, solo se manifiesta en una manera diferente. No hay mucha discusión sobre las personas sordas en el sistema penal de inmigración. Sin embargo, hay bastante discusión acerca del acceso al debido proceso para ellos en la corte criminal. La discusión de este tema pueda informar el acceso al debido proceso para inmigrantes LEP porque reconoce el gran papel que tiene la interpretación en el acceso al debido proceso. Un estudio de presos en Texas expuso

el hecho de que entre 20-50% de la población sorda podría haber sido negados su derecho al debido proceso durante sus juicios debido a la barrera lingüística (Miller 118). Se encontró que muchos de los presos sordos que pasaron por el sistema de justicia no tenían las herramientas lingüísticas para poder entender los procedimientos judiciales ni comunicarse con la corte. Muy similar a una persona LEP, el idioma de signo no es lo mismo en todas partes; además, la persona media que usa el lenguaje de signos no sabe todo el vocabulario necesario para entender los asuntos legales (Miller 118). “Linguistic diversity in the deaf population can create significant complications, even for qualified sign language interpreters...due in part to variations in the educational backgrounds and language proficiencies of deaf defendants” (Miller 112). Esta cita explica la complejidad de cualquier situación que tiene que ver con la barrera lingüística y la interpretación durante procedimientos judiciales. Primeramente, establece que, en algunos casos de personas con una barrera lingüística, una interpretación adecuada durante los procedimientos sería suficiente para asegurar que haya debido proceso durante el juicio. Sin embargo, en otros casos, aun buenas interpretaciones no serían suficientes para sostener el debido proceso durante un juicio debido a la variación lingüística de la persona en cuestión.

Este mismo estudio mostró que hay una gran probabilidad que un número significativo de demandados con discapacidades lingüísticas han sido enjuiciados y encarcelados sin ningún reconocimiento de su condición (Miller 113). Pensando en la falta de salvaguardias para asegurar la buena interpretación durante juicios y la inexistencia de acceso a consejo nombrado para personas LEP durante procedimientos de deportación es poco probable que el mismo fenómeno no haya pasado con la población LEP.

Este argumento legal de la importancia de representación para personas sordas principalmente está basado en el Americans with Disabilities Act (ADA). En 2013 la Unión Americana de Libertades Civiles (ACLU) ganó un caso que resultó en una orden de la corte dictando que personas con discapacidades mentales tienen que recibir consejo de Representantes Calificados (un abogado, un estudiante de ley o alguien calificado de navegar el sistema legal). La corte acordó

que sin la ayuda de un Representante Calificado, el debido proceso no sería sostenido durante un juicio de inmigración de una persona con discapacidades mentales. Este argumento, al igual que el de las personas sordas, fue basado legalmente en el ADA. Es bueno que los EE.UU. haya reconocido las necesidades de grupos con discapacidades como está definido en el ADA. Para personas LEP, su desventaja lingüística puede ser tan perjudicial como cualquiera de estas discapacidades funcionales que están protegidas por el ADA. Aunque no postulo en ninguna forma que tener una discapacidad es igual que no hablar inglés, es cierto que puede tener el mismo efecto en hacer que el debido proceso sea inaccesible sin ayuda legal.

La aprobación del ADA y el reconocimiento de estos derechos para personas en procedimientos judiciales son importantísimos. Esta ley ha servido para proteger varias comunidades vulnerables para sostener el debido proceso durante juicios. Por supuesto, personas LEP no caen bajo de los protecciones de esta ley porque ellos no tienen ninguna discapacidad—solo no saben hablar bien el inglés. El problema para ellos es la barrera lingüística la cual se manifiesta de la misma manera—un impedimento al acceso del debido proceso durante sus juicios. Sin embargo, los EE.UU. no reconocen los derechos lingüísticos tan explícitamente como los derechos de personas con discapacidades. Aun en la ley de inmigración el reconocimiento de la lengua como factor importante en los procedimientos judiciales casi no existe. En la ley general de los EE.UU. tampoco ha habido mucho diálogo sobre los derechos lingüísticos, lo cual hace aun más difícil la lucha por los derechos lingüísticos en el campo de la inmigración.

La mayoría de los documentos del gobierno que tienen que ver con la lengua no son efectivos. Por ejemplo, la Orden Ejecutiva 13166 y *The Executive Office for Immigration Review's Plan for Ensuring Limited English Proficient Persons Have Meaningful Access to EOIR Services* hablan de procesos para proporcionar recursos para personas LEP. Sin embargo, ninguno es una ley que establece este acceso como un derecho. La Orden Ejecutiva dice "This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its

officers or employees, or any person.” En sentido práctico, esta orden no hace nada para mejorar la situación de las personas LEP porque no hay ninguna manera para considerar al gobierno responsable de cumplir los pasos esbozados en esta orden. De esta manera el gobierno estadounidense puede hablar de mejorar el acceso para personas LEP, pero cuando esto no se puede usar en un tribunal de justicia, no vale para proteger los derechos lingüísticos. Es obvio que el problema de falta de reconocimiento de la barrera lingüística no solamente existe en cuanto a procedimientos de deportación sino también hay una falta de reconocimiento de derechos lingüísticos en la ley general de los EE.UU.

En conclusión

Los inmigrantes tienen derechos civiles bajo la constitución de los EE.UU. Uno de estos derechos es el debido proceso durante juicios, incluyendo el debido proceso establecido en la prueba de *Mathiews v. Eldridge* en contextos de procedimientos de inmigración. Además, se ha determinado que los inmigrantes tienen el derecho de ser oídos en situaciones cuando se determina si se debe permitir que permanezcan en el país. Hay deficiencias fundamentales en el sistema legal de inmigración lo cual hace imposible el proporcionar estos derechos al debido proceso y de ser oído durante el juicio. Cuando se comparan los dos primeros factores del debido proceso como son esbozados en la decisión de *Mathiews v. Eldridge* es obvio que hay una falta de salvaguardias para asegurar la justicia y el debido proceso durante un juicio de inmigración. Estas deficiencias se encuentran en el acceso limitado a consejo legal y la ausencia de una obligación por parte de la corte de proporcionar consejo nombrado para personas detenidas obligatoriamente. También, las leyes y normas de buena práctica en procedimientos de inmigración casi ignoran el factor de la lengua en el proceso legal de deportación. Conjuntamente, las partes de la ley que sí hablan de la interpretación no fundan ningún mecanismo de salvaguardia procesal para asegurar que los demandantes reciban una buena interpretación de los procedimientos legales en la lengua que hablen. La ley general de los EE.UU. ignora cómo puede el factor lingüístico afectar a un proceso judicial u otros contextos informados por las leyes estadounidenses. Otros grupos vulnerables que enfrentan dificultades en cuanto al recibir el debido proceso durante

procedimientos judiciales, incluyendo personas con discapacidades mentales y personas sordas, están protegidos por la ley ADA. Por eso, es más fácil defender sus derechos a consejo nombrado durante sus juicios. Aunque personas LEP también se encuentran en una situación de inaccessión al debido proceso por razones de no poder defenderse en una corte, no hay suficientes leyes estadounidenses para defender los derechos lingüísticos. Hasta que no se establezcan salvaguardias para estas deficiencias fundamentales y se asegure el mantenimiento de derechos durante procedimientos de inmigración, los inmigrantes LEP serán incapaces de defenderse y la justicia se quedará con la lengua atada.

Muchísimas gracias a mi increíble profesora Elise DuBord por todo el apoyo y ayuda que me has dado. También, gracias a José Saavedra por ayudarme con las revisiones.

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Acknowledgments

The Editors of *The Drew Review* would like to thank especially the Board of Trustees, President Vivian Bull, and Christopher Taylor, Dean of the College, for their ongoing and generous support of the *Review*.

While only one quarter of all nominated papers are published, the *Review* reflects the efforts of the entire Drew University community. Without the participation of the nearly twenty students who submitted their essays and the thirty faculty members who participated as nominators or outside readers, *The Drew Review* would not be able to maintain its high standards for publication. All nominated essays were recognized by their nominating professors as particularly outstanding examples of undergraduate research and writing; a nomination to the *Review* honors that achievement. We are grateful to those who made the *Review* possible by serving in all of these capacities.