

EXPLORATIONS IN ETHNIC STUDIES



ETHNICITY AND JUSTICE

Explorations in Ethnic Studies is a multidisciplinary journal devoted to the study of ethnicity, ethnic groups, intergroup relations, and the cultural life of ethnic minorities. The editorial staff welcomes manuscripts that are in concert with the objectives and goals of the National Association for Ethnic Studies. Contributors should demonstrate the integration of theory and practice.

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Explorations in Ethnic Studies

Table of Contents

<i>Introduction: Ethnicity and Justice</i> by Johnny Washington	1
<i>A Stacked Deck: Racial Minorities and the New American Political Economy</i> by Noel J. Kent	5
<i>Are You An Emissary of Jesus Christ?: Justice, The Catholic Church, and the Chicano Movement</i> by Alberto L. Pulido	17
<i>Obasan: The Politics of the Japanese-Canadian Internment</i> by Ann Rayson	35
<i>Ethnic Disparities in Sentencing and the Washington Sentencing Reform Act: The Case of Yakima County</i> by David L. Hood and Jon R. Harlan	43
<i>The Law and Policy of Civil Rights: A Tactical Perspective for Educators</i> by Le Von E. Wilson and George Steven Swan	57
<i>Contributors</i>	69

Introduction: Ethnicity and Justice

Johnny Washington

The ideal of social justice in the United States has its roots in both the Judeo-Christian and ancient Greek traditions. From the latter our notion of democracy as a just institution is derived. At the theoretical level, Plato attempted to define ideal justice in his *Republic*, but here we are not concerned with ideal justice. At the practical level, the Hebrew prophet Amos urged public officials to practice justice as enjoined by Moses and his predecessors. Some 2700 years later Martin Luther King, Jr., sought to combine these two senses of justice when he insisted that America can satisfy its democratic creed—that all men are created equal—only when it “allows justice to roll like water and righteousness like a mighty stream.” Like the lonely prophet Amos, King was a voice for the toiling masses.

This special issue of *Explorations in Ethnic Studies* is concerned with what may be called “ethnic justice,” by which we have in mind the combination of the above two traditions, understood within the context of ethnic minorities in the United States. Thus, justice may be defined as the practices and policies that prohibit unequal treatment of people based on race, ethnicity, or color of skin. Ethnic justice in the modern sense is often mistakenly associated with Affirmative Action, which many opponents call “reverse justice,” i.e. reverse discrimination.

Noel J. Kent’s “A Stacked Deck: Minorities, Social Justice and the New American Political Economy,” is a neat point of departure. He examines justice within the context of the American economy. The cards are stacked in favor of the larger society which denies equal opportunity to its ethnic minorities. Within the past decade, America adopted a new economic policy that shifted from a production to a service economy. This has, in Kent’s analysis, created a hardship for many minorities, especially African Americans and Hispanics, many of whom are ill-prepared to obtain employment in this service-oriented economy that relies heavily on highly skilled workers.

If Kent blames the United States government for being the source of injustice, Alberto L. Pulido, in his “Are You An Emissary of Jesus Christ?: Justice, The Catholic Church, and the Chicano Movement” regards the Catholic

Explorations in Ethnic Studies, Vol. 14, No. 1 (January, 1991)

Church as the perpetrator of ethnic injustice. His analysis focuses on the *Catolicos Por La Raza (CPLR)* movement that emerged in San Diego and Los Angeles, California, in 1969. Spokespersons for the *CPLR* maintain that the Catholic Church has failed to fulfill its earthly mission in as much as the Church has turned its back on the needs of the poor farm workers. As in the views of Amos, the *CPLR* in effect maintained that the Church needed to widen its channels, so that the streams of justice might flow more freely.

Like Kent, Ann Rayson in her, *Obasan: The Politics of the Japanese-Canadian Internment* returns attention to the State, which she regards as the source of injustice; however, here, she is concerned not with the American government but with the Canadian government's mistreatment of its Japanese citizens during World War II. Treated as "enemy aliens," Japanese-Canadians were stripped of all their rights and properties by the Canadian government. *Obasan* is a novel that focuses on the internment and resulting injustice that the Japanese-Canadians suffered. As Rayson states: "The results of this policy of internment and dispersal were the death of a viable culture." She adds, "Many Canadians have likened their wartime experience to rape." This was a form of social rape, comparable to the injustice that African Americans and other ethnic minorities have suffered in the U.S.

It is quite likely that any perceptive child, whether European American or African American, who is familiar with television, has formed the impression of African Americans (especially males) as criminals. This impression is largely shaped by the media and other sources. African Americans, more so than their European American counterparts, are often portrayed as criminals or potential criminals. Such a perception seems to be deeply ingrained in the American mind. Not only does the "average person" carry this "negative image" or bias of African Americans, but this is also true of the many people who run the criminal justice system—judges, lawyers, social-workers, among others. Such ethnic bias, according to David L. Hood and Jon R. Harlan, is the source of sentencing disparity affecting certain ethnic minorities in the U.S. The two authors provide evidence for this in their "Ethnic Disparities in Sentencing and The Washington Sentencing Reform Act: The Case of Yakima County."

Many people are of the opinion that the most effective way to rout biased attitudes about ethnic minorities is through education. Through this institution people are provided the opportunity to debate such issues as affirmative action, racial prejudice, and quotas, to arrive at an open, balanced understanding of the experience of ethnic minorities in the U.S. This view is shared by Le Von E. Wilson and George Steven Swan. In "The Law and Policy of Civil Rights: A Tactical Perspective for Educators," they offer a pedagogical tool that allows for a careful analysis of the above mentioned issues. This is made possible by providing a "hands-on study of actually-litigated minority set-aside/affirmative action controversies before the U.S. Supreme Court, with every student utilizing the primary documents (the litigants' briefs) used by the Supreme Court Justices themselves. These briefs provide readymade resources fueling policy debate on either side of each case."

For the past few centuries, America has, in the views of Martin Luther King, Jr., issued its ethnic minorities a “bad check,” which suggests that the system of justice is bankrupt. One wonders how much longer will the **Bank of Justice** remain “in the red”? This is an important question, because by the year 2020, ethnic minorities will be in the majority. To what extent will this demography shift affect our sense of justice in the future. And, more importantly, what are we doing to achieve justice in the present?

A Stacked Deck: Racial Minorities and the New American Political Economy

Noel J. Kent

Introduction

The 1960s brought the promise of a new era of social justice for all Americans. Indeed, the overturning of official, state-sanctioned racial structures was a watershed in national life. During the 1970s and 1980s, however, the earlier momentum of the civil rights period dissipated as the end of the postwar economic expansion ushered in a crisis of American culture and polity. “Symbolic racism” emerged as a powerful political and ideological instrument to buttress resistance to racial and ethnic equality. During the 1980s, a Reagan administration antagonistic to the aspirations of minorities and the working classes in general was able to impose an array of policies (and a discourse) on the nation which polarized ethnic groups and classes even more rigidly. In Reaganism, one sees the congruence and power of symbolic racism and class-targeted economic policy, the capacity of elite forces to carry out economic restructuring at the cost of minority equality. What the post-civil rights period has largely done is to stack the American deck against African Americans and Hispanics.

The 1970s marked a watershed in the economy of the United States, the passage from the “effortless growth” of the initial postwar period to a harsher age. It was a decade which witnessed price escalation, sharp economic recession, and culminated in the onset of stagflation. The decline of the much heralded “American Standard of Living” was felt in many quarters and especially throughout the lower middle and working classes.¹

At the core were deeply-rooted and apparently unsolvable structural problems reflecting an altered American global position: the inability of major corporations to raise productivity and profit levels and their loss of global and domestic competitiveness; the demise of substantial numbers of industrial jobs to export and automation strategies; instability in financial markets; and, above all, the end

of dependable, stable growth. In an important work appearing at decade's end, Paul Blumberg found "the chronic stagnation of living standards" begetting a "psychology of scarcity, limits and retrenchment."²

Economic decline severely undermined what had been deep public confidence in political institutions. Elected on a platform pledged to restore the public trust, the Carter administration (1977-81) lacked the political skills, sense of priorities, and outright capacity needed to reverse the deterioration. Moreover, major Carter policies from 1978 on—social budget cutting, inflationary control through recession and military buildup—were a repudiation of initial commitments to a more equitable society. This revealed the exhaustion of the possibilities of liberal corporatism (and also prefigured the coming of Reaganism).³ In the increasing hostility of business circles to various facets of the welfare state, in the newly emergent neo-conservative trend with its opposition to the claims of ethnic and sexual minorities, the face of the decade-to-come was visible. By 1980, the lack of a viable alternative economic strategy (or political coalition) set the stage for the bold experimentation of the Reagan period.

Reaganism set the tone of political discourse in the 1980s and helped carry out a profound transformation in both public and private spheres. In retrospect, it amounted to a grand and risky attempt to transcend the crisis of corporate-liberalism. The curious political coalition that put Ronald Reagan in the White House—right wing western energy, agribusiness and financial entrepreneurs, southern religious fundamentalists, traditional upper middle class Republicans, and crucial numbers of disillusioned urban blue collar and lower white collar workers—was largely held intact by Reagan's firm advocacy of high powered economic growth, low inflation and national renewal.

There was an additional source of active bonding here: *racism*. The civil rights movement had, among its great successes, succeeded in undermining the ideological power of white supremacy. Biological racism and its accompanying Jim Crow institutions had been largely discredited during the upsurge of the 1960s. Yet, racism was sustained as an American *norm* and continued to be central to the way in which white Americans ordered the universe. In a huge, disparate and deeply competitive nation, anti-black, anti-Hispanic sentiment served as a force for unity and stability among the majority population, displacing class conflicts into race and legitimizing the social structure.⁴ It, furthermore, conferred some definite material and psychological benefits upon whites. In brief, the civil rights revolution had failed to transform the cultural belief system that held the humanity and culture of African and (in a somewhat different degree) Hispanic Americans to be less than their own.⁵

This is a crucial aspect of the social justice "dilemma" in the United States today. Benjamin Ringer has argued that "America's response to and treatment of its racial minorities have had a dual character . . . built into its structural and historical origins."⁶ Because of deep institutional racial discrimination and the resilience of racial/ethnic hierarchies, some minorities have been acutely vulnerable to the functioning of marketplace capitalism; they have needed profound governmental interventions to secure entrée into the primary economic sector,

and, once in, something approaching equal opportunity. What the new “symbolic racism” which emerged as the successor to the traditional Jim Crow racism in the late 1960s did was to legitimize resistance to racial equality and equality of opportunity and delegitimize state intervention for minority social justice.

Symbolic racism has been an ideology attuned to the needs of the post-civil rights era. New “cultural” stereotypes have appeared to replace the more overt biologically-determined ones. African Americans and Hispanics in the labor market have been characterized as lacking the skills and motivation to perform in a high skill economy. What reinforced the power of symbolic racism was its incorporation of the dominant American ideology of individualism, which explains social structure and wealth and poverty by reference to individual character and talents.⁷ A society where “social solidarity” is based upon “separating those who are deserving from those who are not,” seeks to blame and discredit the “undeserving.”⁸

The context presented here is that of an “open” system ready to reward the capable and motivated. Symbolic racism uses the individualistic ethos to attribute non-white poverty, unemployment and low occupational status to personal failings. To explain why African Americans and Hispanics occupy a grossly disproportionate percentage of jobs in the lower wage, lower promotion, lower security *secondary* economic sector, why they often leave the labor market in despair, etc., it offers the notion of “cultural” and “personality” dysfunctions.

Reaganism: The Congruence of Class Politics and Racism

Reaganism marked the culmination of years of white backlash to the civil rights revolution. White counter-mobilization on a massive (and national) scale had first found its political focus in the right wing populist presidential campaigns of George Wallace. Wallace’s success in exploiting the economic insecurities and failed expectations as well as the racial animosities and fears of the lower middle and working classes prompted Republican strategists to embrace white southerners (and anti-black sentiment, in general) as the key to a “permanent” lock on the White House.⁹ Reagan’s decisive 1980 election victory capitalized heavily on racially motivated voters to sweep the South, while winning substantial support among those northern white ethnics alienated from the pro-minority stance of the national Democratic Party. The prolonged economic crisis had accentuated the struggles between majority and minority citizens for jobs and social services; meanwhile, increasing black political clout had made political action an imperative for groups espousing a “defensive” white ethnicity.¹⁰

In short, the presidential triumph of Ronald Reagan marked the ascendance of the politics of race and resentment; it provided a fearful white majority with a federal state committed to the racial status quo; it provided the New Right (and its agenda of “social control” over racial majorities) a powerful place at the center of policymaking.

The nature of Reagan’s core political base, in addition to his own corporate and ideological loyalties, meant certain business sectors (and the classes which owned and managed them) were to be the locomotive of economic expansion.

Resources and initiatives were transferred from the public to private sector. The scope of the federal regulatory mission was markedly reduced. To further capital accumulation in favored sectors, state spending was shifted from social services to the military, progressive taxation undermined, and an anti-trade union environment sustained, aimed at exacting wage discipline and concessions from the workforce. This amounted to a partial dismantling of the New Deal social contract, in essence, “a coherent ideological attack on the principles that have governed policy in this country for the last half-century.”¹¹

A centerpiece of Reagan program strategy was the diminishing of the welfare state. Here, a key thrust was the reduction/repeal of various public entitlements and programs directed at aiding poor and working class Americans. Only the “truly needy,” as defined by the administration, would be helped. This was, in effect, to be the Reagan solution to what O’Connor has called, “the main domestic problem facing big capital”—the social wages built up since the New Deal that constituted the American version of “Social Democracy.”¹² Such income maintenance programs were targets because they enlarged workers’ bargaining power and autonomy vis-a-vis capital. During the administration’s first year in office, it “made the severest cuts in social spending in our history.”¹³

It is significant for our ethnic/racial polarization thesis to note that ultimately those programs with a broad base in the (disproportionately white) middle strata such as social security and veterans benefits proved fairly resistant to cutting. In contrast, those oriented to the (disproportionately black and Hispanic) poor and working poor, such as Aid to Families with Dependent Children, vocational education, public service employment, etc. were dramatically slashed.¹⁴ What Reagan policy makers exploited was the partial legitimacy of programs oriented to the poor/working poor which (under the dominion of the “culture of individualism”) bore the onus of being “handouts” to the “unworthy.”¹⁵

In retrospect, some of the Reagan administration’s most ambitious initiatives were aimed at revamping the post-New Deal social contract between citizen and state. Thus, the objectives of the historic 1981 tax cut (and subsequent weakening of the federal financial structure) were not simply to reward affluent Republican voters and stimulate “supply side” mechanisms, but also to diminish the capacity of the state to provide an effective social welfare system and take new social policy initiatives. Citizens would be forced to radically reduce their expectations of what services and the amount of social wages government could reasonably provide. The goal, then (which was partly thwarted by Reagan ineptitude and congressional resistance), was to delink economic rights from citizens’ traditional political rights in the United States. Indeed, the post-Reagan \$3 trillion federal debt and massive annual deficits have placed severe constraints on restoration (or expansion) of future social welfare budgets.

The immediate consequences of the Reagan program were most apparent in certain minority communities. For instance, for the estimated 1.6 million of four million black families with children receiving AFDC monies, between 1974 and 1984, average payments per family declined one-third in real terms with the steepest cuts in the Reagan years. Cutbacks in Pell grants to disadvantaged

students, reductions in federal funds for public housing, and the elimination of some federal jobs were felt disproportionately in the African American and Hispanic communities. The first generation of African American and Hispanic mayors found themselves confronting enormous demands for services by beleaguered citizens, while federal cutbacks ravaged their budgets.

The neo-conservative assault on the welfare state carried an unstated (but clearly implicit) message that the most unworthy programs were those most crucial to minority needs. By arraying the prestige and power of the federal government against special minority supports in education and employment, the Reagan administration stigmatized them. Both the President and the U.S. Attorney General pointedly referred to affirmative action as “reverse discrimination” and narrowed government suits to cases of clear “intent.” Federal action on behalf of equal opportunity declined precipitously. This, in turn, helped to legitimize the type of racism which is most functional to privileged racial and economic groups in present times; what Pettigrew and Martin refer to as the “modern racial prejudice which is generally more subtle, indirect and ostensibly non-racial,” tends to be common in hiring and promotion processes.¹⁶ In a time of economic stagnation and deep anxiety for white workers (whose standard of living is increasingly precarious), the clear absence of state sanction and moral authority on behalf of equity not only intensifies normal “trench warfare” between different groups for advantages, but encourages yet more explicit racist attitudes.

If African Americans and Hispanics did succeed in achieving middle strata status in unprecedented numbers during the 1960s, it was largely because of direct federal bars on official discrimination and promotion of minority education and employment.¹⁷ The end of favorable state intervention (in conjunction with economic changes) has crippled that movement towards a minority social structure resembling the majority one. When a government, by intention or by-product, assaults the position of the “popular classes” in the United States, it inevitably wreaks the most havoc on subordinate ethnic and racial groups.

The Reagan administration was determined to serve the interests of its upper middle and upper class core constituencies, exalting the market mechanism and eroding the capacity of the welfare state. The credo was to reward the financially successful and those placed to be still more so. Thus, its definition of who and what constituted legitimate clients for state services included individuals and corporations, made or on-the-make, while excluding disadvantaged economic, ethnic, or gender groups. Reagan’s literal enunciation of a “colorblind” bias in state policy left African Americans and Hispanics of all classes (but especially, the working class and poor) subject to the vagaries of an increasingly harsh market system.

The New Economic Order

Minority social justice has always been closely tied to the state of the labor market. During the 1960s, the expansion of the technical-clerical-professional areas of employment was vital to the breaking of traditional racial/ethnic

stereotypes and roles in the workplace and to the growth of black and Hispanic middle classes. A historic restructuring of the U.S. labor market began in the middle 1970s. This was in response to radically altered market, financial and technological conditions and the loss of the “natural” American global dominance of the early post-war era. In the Reagan period, because of business’s unchallengeable strength and its access to the levers of state power, restructuring took the form of disinvestment and elimination of productive capacity, union bashing, and changes in work organization, reducing the labor component in production, outsourcing for goods in cheap labor areas abroad, and “paper entrepreneurship.”¹⁸

The most dramatic break was the monopoly sector’s jettisoning of the much lauded “social contract” it had negotiated with labor after World War Two. Even in industries where powerful trade unions had once wielded great authority (airlines, trucking, automobiles, electrical goods) concessionary contracts and two-tier employment schemes became common. A transformed labor market featured a core of full-time “regulators,” surrounded by a growing periphery of part-timers, temporaries, home and subcontracted workers (lacking medical benefits, paid vacations and private pensions and bearing the costs of market “dislocations”).¹⁹

There has been a momentous change in the nature of job generation, itself. During the quarter-century after 1950, the labor market generated a clear majority of well-paying skilled positions; contemporary new jobs, however, are centered in the lower to medium rungs of the service sector. Indeed, some eighty-five percent were found by one study to be in the lowest paid services.²⁰ These workers, along with the official jobless (over five percent in the “tight” labor market of 1990) are those whom Emma Rothschild refers to when she remarks: “The market-welfare state eludes tens of millions of Americans at the periphery of the full employment economy.”²¹

This transformation was abetted by the Reaganist state which provided a lucrative umbrella of deregulation and tax incentives for the historic leaders of American manufacturing to pursue the “abandonment of production.” Market logic and state policy made “conglomerate mania” and diversification into financial services more profitable than product innovation and quality production. Deregulation of financial markets has resulted in an unprecedented wave of hostile takeovers and leveraged buyouts which left hugely indebted corporations to pare off divisions and workers. Between 1979 and 1985, 2.3 million industrial jobs disappeared, precisely the stable, high wage employment which lay at the cornerstone of blue collar aspirations for middle class lives.²²

American labor markets have become more hostile to social mobility. A major pole of Reagan-era job creation was the lower echelons of service industries like finance, legal services, sales, health, and insurance.²³ Between 1983 and 1988, manufacturing provided exactly eight percent of net new jobs. So the movement from manufacturing to services has impacted real income levels; by 1967, shrinking industries paid 41.5 percent more in annual wages than did the expanding ones.²⁴ As Katharine Newman so ably illustrates, downmobility has

become a common phenomenon in large sections of the workforce. The restructured American economy continues to generate jobs supporting upper middle class lifestyles, but the bulk of new employment will be in retail services, office work, cleaning, waiting and waitressing (2.5 million additional jobs are projected for the restaurant fast food sector in 1986-2000).²⁵

The harshness of the new labor market is apparent in the stagnation of family incomes over the last decade—even with the mobilization of more family (i.e., female) workers. In the decade that elapsed from 1975 to 1985, adjusted median family income rose but a pittance, \$27,421 to \$27,735.²⁶ The best the much celebrated Reagan growth trend could do was return household incomes to early 1970s levels after a slight decline. Given the rapid rise in housing, medical, and educational costs, however, stagnancy really meant a declining standard of living and lessened future opportunities.

Previous growth eras (especially the two world wars and the 1950s to middle 1960s) carried an “equity dividend.” The force of economic expansion and labor shortage buoyed lower income Americans (and disadvantaged minorities, in particular) into more highly skilled, better paid jobs in the occupational structure. Therein lay the basis for the dual theories of class and race “convergence” in the United States. Yet, Reagan policies were directed at enhancing property-based incomes at the cost of wages and thus succeeded in making the boom the vehicle for the further enrichment of the rich. The nation is more acutely class polarized than at any time since 1947; when Reagan left office, one-quarter of all American households had a total net worth of less than \$5,000, while the top one percent owned thirty percent of total household wealth.²⁷ The Reagan period was one of both absolute and relative gain for the wealthiest twenty to forty percent of American families (and especially, the top one to five percent), at the cost of the stagnation and decline of the rest.²⁸

The Victims of the Great Restructuring

In a society where there remains strong congruence between race/ethnicity and class, to say the sacrifices of the Reagan “miracle” have been borne by the poor and lower middle strata is to say that they have been unduly borne by African American and Hispanics. Between 1980 and 1986, the earnings of full-time year-round African American workers fell from seventy-seven percent to seventy-three percent that of whites; given the same family type, poverty was higher for African Americans than whites.²⁹ In comparing high school graduates, whites had incomes almost \$4,000 higher than Hispanics; white high school graduates earned \$3,000 more than African Americans and \$2,000 more than Hispanics.³⁰

These disparities are the result of both continuing racial discrimination in the labor market and the new (and diminished) opportunity structure. Bonacich makes the link here arguing that “race and ethnicity reflect a deeper reality namely class relations and dynamics.”³¹ Despite the continuing emergence of African American and Hispanic middle classes, ethnic stratification has been rigidified; a complex new division of labor organized along global lines had

removed entry level positions in white and blue collar work and made a large number of African American and Hispanic workers either dependent upon substandard or superfluous jobs. The restructuring of central city economic functions from manufacturing, warehousing, and transportation to information processing and financial services played special havoc with opportunities for young African Americans and Hispanics to gain stable, decent employment in the unionized heavy industrial sector.³²

The irony here—that after decades of exclusion, African Americans and Hispanics would finally gain entry into the coveted primary industrial sector only to have “deindustrialization” arrive—is a tragic one. This meant the savaging of the stable, well-paid blue collar group (out of which the future minority middle class would logically be recruited). Industrial restructuring precluded the “normal” hiring of the second and third generations of these workers. In 1976, for example, forty-six percent of African American workers, twenty to twenty-four years of age, were employed as blue collar craft operatives; by 1984, this was reduced to twenty percent.³³ Given such reduced possibilities of locating decent, stable work, data showing that African American men spend substantially less of their lives in the “official” workforce than whites, and often leave it in their prime working years, is readily understandable.³⁴

A cautionary note here. The importance of economic restructuring and decay in maintaining minority subordination in labor markets is clear. But they are interlinked with the response of political-economic elites to the questions of allocating “burdens” in resolving the economic crisis and to the deep-seated (and exploitable) racism of the majority population. Ultimately, these forces, together with the intrinsic logic of a hierarchic system, made the variety of instruments utilized by African Americans and Hispanics to create a society of real equality ineffectual. In a recent article, the noted race relations scholar, Lewis Killian, stressed just this point:

The size of the piece of pie is not as critical in these times as is the shrinking of the fraction of the pie left for the have-nots in a class-polarized society.³⁵

Thus, instead of racial convergence, we find a continuing tendency for majority and minority workers to start at different entry levels in the job market, and have different pay and promotion prospects.³⁶ A significantly higher proportion of Hispanics and African Americans continue to work in the more unstable and less lucrative “secondary” economic sector.³⁷ Throughout the years of economic downturn in the 1970s and early 1980s, the incomes of minority families fell faster than those of whites, only to recover considerably more slowly during the subsequent 1980s expansion.³⁸ In the generally prosperous year of 1986, median wages and salary earnings of African American workers were sixty-three percent of white workers and Hispanics made slightly less than that figure. It is also noteworthy that the relative incomes of African American and Hispanic families have fallen since the late 1970s.³⁹ African American unemployment has remained consistently at levels two to three times that of whites; Hispanic joblessness has been intermediate between the two others. In 1987, for

example, African American unemployment was at thirteen percent; Hispanic, 8.8 percent and white slightly over five percent. These figures help account for African American and Hispanic poverty rates double to triple white rates.⁴¹

The weakening of the welfare state and growing labor market segmentation structures are at the source of the crisis of African American and Hispanic youth. Lacking specialized training, solid job networks, adequate transportation, access to suburban labor markets, and standard language competency, minority high school graduates and drop-outs must take the leavings of a bifurcated labor market. There is, of course, “lingering” institutional discrimination to contend with also.

The severity of the youth crisis is most revealing at the level of the family. In general, “an economic disaster has afflicted America’s younger families,” but “young black and Hispanic families have suffered particularly severe earnings and income loss.”⁴² Young African American families saw their earnings decline by one-half between 1973 and 1986; young Hispanic families, by one-third. The steep fall in African American male incomes undermined their ability to sustain families and resulted in a startling increase in young (largely single parent) households in poverty.⁴³

Young working class and poor white families have also suffered from recent income losses and an acute lack of access to affordable housing. But ethnic hierarchies and differential resources continue to favor them over minorities; young whites at every occupational level earn more than their African American and Hispanic counterparts. Young African American family income declined from sixty percent of whites to forty-six percent between 1973 and 1986; Hispanics from sixty-eight to sixty-two percent.⁴⁴ This may well be a long-term trend; the rigidities of the nation’s economic and educational structures make reversal of the pattern of growing youth inequality problematic, at least. One probable scenario of continuing racial (and gender) occupational segregation is alluded to in a Bureau of Labor Statistics report: “The future labor force is projected to be increasingly minority and female and they are destined for lower occupations.”⁴⁵

Conclusion

In a multiethnic nation like the United States, social justice means the full and equal access by minority groups to the whole range of societal opportunities and resources. The contemporary American political-economy, has, however, since the onset of economic crisis and political reaction in the late 1960s, been unfavorable to this. The Reagan administration, political beneficiary of the widespread desire to halt minority movement towards equality (“symbolic racism”), adopted social and economic policies which rewarded the affluent classes and punished those minorities who were disproportionately lodged in the poor and working classes. Welfare services needed to sustain minority communities have been drastically reduced. Meanwhile, the highly flawed growth of the 1980s and a restructured labor market negated or froze many gains minorities had made earlier. Poverty levels for African Americans and Hispanics have

increased markedly. Over the period from 1973 to 1985, whites had (in crude terms) barely held their own with an adjusted family income gain of 0.3 percent, but Hispanic Americans lost 2.4 percent and African Americans, 8.7 percent.⁴⁶ This, of course, does not reveal an even starker truth: the United States during these years had become a more unequal society on every level, between and within ethnic groups and between classes and age groups.

Finally, there is the rather dubious legacy of Reaganism. Rather than the powerful, competent, hegemonic power the Reagan experiment promised to restore the United States to, there is a nation fitting quite well “the classical model of a failing economic power.”⁴⁷ This is not the framework conducive to African American and Hispanic progress; the mean conjunction of economic decay, symbolic racism, and a series of interlocking structural mechanisms would seem to augur a further deepening of racial inequities.

In the absence of an interracial-interethnic coalition seeking broad changes in American society, greater polarization and fragmentation of our citizenry by race, class and ethnicity seems likely. This may eventually undermine the functioning of a rather fragile democracy.

Notes

¹James Dale Davidson, *The Squeeze* (New York: Summit Books, 1980).

²Paul Blumberg, *Inequality in an Age of Decline* (New York: Oxford, 1980), 102.

³Alan Wolfe, *America's Impasse The Rise and Fall of the Politics of Growth* (Boston: South End Press), 41-45.

⁴Joel Kovel, *White Racism* (New York: Pantheon Books 1970), 21-95.

⁵Benjamin B. Ringer, *'We the People' and Others: Duality and America's Treatment of its Racial Minorities* (London: Tavistock Press, 1983).

⁶Ringer, 7.

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Are You An Emissary of Jesus Christ?: Justice, The Catholic Church, and the Chicano Movement

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Introduction

In 1969, *Católicos Por La Raza* (CPLR) emerged as an ethnic “protest group” against the “injustices” of the American Catholic Church in San Diego and Los Angeles, California. CPLR was critical of the Catholic hierarchy’s inconsistencies in relation to the Chicano community. As one of the wealthiest institutions, the Catholic Church was doing very little for a community that made up the largest part of the Church’s membership. For CPLR, the Christian message of “justice” was not practiced by the leaders of the Church. In Los Angeles, Chicanos were asking why the Archdiocese chose to close a high school in the barrio, due to lack of funds, but could still afford to build a three million dollar cathedral in downtown Los Angeles. In San Diego, Chicanos were asking the Catholic Church to become intimately involved in the everyday struggles of the Chicano community. Within this dialogue emerged a clear concept of “justice” and its meaning for CPLR members in relationship to the hierarchy of the American Catholic Church.

This paper examines the concept of justice and its role in structuring and defining CPLR into an ethnic and political movement in San Diego, California. As an ethnic movement, CPLR helped crystalize an understanding of “Chicano identity” in relation to the Church and the larger dominant community. As a political movement, CPLR forced the American Catholic Church to take a stand on political and economic issues impacting the Chicano community, including the role of the Church in the Farm Workers Movement in California.

The origins of CPLR began with the early union organizing activities of Cesar Chavez. The major goal for Chavez was to acquire equitable wages through collective bargaining legislation and decent working conditions for farm workers. As a faithful Catholic motivated by his religious convictions, Chavez challenged the hierarchy to take a stand on the issue of labor unions for farm

workers. Union activities impacted heavily on the political and ethnic identity of young urban Chicanos.

The 1965 strike in Delano, California, helped spawn an emerging ethnic consciousness for Chicanos within an economic and political milieu. The strike consolidated the Chicano movement within California universities, as the oppressed and exploited rural Mexican farm worker became the symbol of struggle for Chicano(a) college students.

Chavez and the National Farm Workers Association placed sectors of the American Catholic Church in conflict with the farm workers' struggle. Eventually, young urban Chicanos entered into the dialogue and asked why the Catholic Church was not doing more for its own. Out of this conflict emerged CPLR as it assessed the American Catholic Church and its relationship to the Chicano community.

The Origins of CPLR: Delano and the American Catholic Church

On September 8, 1965, some 2,000 Filipino workers, members of the Agricultural Workers Organizing Committee (AFL-CIO), called a strike against the grape growers in Delano. Eight days later, on September 16, Cesar Chavez and the National Farm Workers Association (NFWA) voted to join their co-workers on the picket line.¹

The first three months of the grape strike were without precedent in farm labor history, for no strike had ever continued this long. Each day, roving picket lines of NFWA strikers went to vineyards in the San Joaquin Valley and exhorted workers to join the strike. Eventually some thirty-five farms were involved. The strike had a direct impact on agricultural giants such as DiGiorgio grape vineyards, covering 4,800 acres and Schenley Industries, Inc., with 4,500 acres under cultivation.²

By 1965, it became common knowledge from both the clergy and the laity that the Roman Catholic Church supported the rights of workers to unionize through Pope Leo XII's encyclical: *The Rerum Novarum*. However, once these teachings were put into practice, conflict arose from within the hierarchy.

From the very beginning, two priests from Sacramento, Fathers Keith Kenny and Arnold Meagher, joined the picket lines in Delano. Both men were prominent priest-directors of Cursillo movements in their diocese.³ Their actions caused loud protest from local Catholic leaders and Catholic growers. They were labeled "outside agitators" by growers who wrote and telephoned chancery offices. The Catholic hierarchy responded by suspending both Kenny and Meagher from priestly duties, and they were enjoined to refrain from making any statements or associating with any persons connected with the strike.⁴ This came as a disappointment to the strikers who assumed the Church would practice what it preached.

In direct defiance of their clerical superiors, other clerics lent their support to Chavez. Father James L. Vizzard, S.J., Executive Secretary of the National Catholic Rural Life Conference, who formed part of the "Committee of Religious Concern," visited Delano in December 1965. Comprised of eleven

nationally prominent church representatives, Protestant, Catholic, and Jewish, the group called upon the strikers to continue their walkout until “. . . their just demands were recognized.”⁵ In addition, they asked Governor Brown of California and the State Legislature to pass legislation ensuring the right of collective bargaining. Finally, they urged President Johnson and Congress “. . . to enact Federal legislation extending the provisions of the National Labor Relations Act so that it included agricultural workers.”⁶

As with the early unionization efforts during the Bracero Program, Father Vizzard understood the intimate relationship between the Catholic grower and the actions of the American Catholic hierarchy. As he stated:

Church authorities often are frozen with fear that if they take a stand with the workers the growers will punish them in the pocketbook. . . . Church institutions do not exist for their own sake. Nor does the Church itself exist solely for the comfortable, affluent, and powerful who support those institutions. Christ had a word to say about the shepherd, who, out of fear and because the sheep weren't his, abandoned the sheep when they were under attack.⁷

Such statements brought dissension within the hierarchy, as voiced by Bishop A.J. Willinger of the Monterey/Fresno Diocese. Through his diocesan newspaper, the Bishop sought to minimize Vizzard's insights into the problem, as he wrote:

There is an old saying, “if you don't blow your own horn, who is there to blow it for you?” One of the horn blowers of the day is the Reverend James L. Vizzard, S.J. His participation in the dispute at Delano was an act of unadulterated disobedience, insubordination, and a breach of office.⁸

With clerics divided on the strike issue, and in an effort to breathe new life into the strike, the next strategy for the union was to boycott. The NFWA began promotion of a nationwide boycott of Schenley liquors. Within a few weeks, they had boycott centers in sixty-four cities, with the greatest success in Los Angeles and New York.⁹

The boycott of Schenley Industries led to secondary boycott strategies. A secondary boycott occurs when three parties are involved. Thus, the strike went beyond the farm workers and the growers and included the seller of the grapes. Schenley Industries charged that secondary boycotts were illegal. The National Labor Relations Board ruled in favor of the strikers. It ruled that the NFWA was not bound by the guidelines of the National Labor Relations Act. As of December, 1965, the secondary boycott would prove to be the farm workers' most effective tool against California growers.

The next step for farm workers was to make their cause known to the people of the United States. Their plight was dramatized in April 1966, close to Easter, with a 25-day, 300-mile march from Delano to the state capitol in Sacramento, California. Carrying a banner of Our Lady of Guadalupe, and singing the

religious hymn “De Colores,” the marchers were joined by numerous clergy and seminarians from California. The march went into numerous communities, rallies were held, and the message of the strike and the Schenley boycott repeated. As a result of a march that attracted mass media coverage and national attention, Schenley Industries was persuaded to negotiate with the farm workers. The first contract was signed with Schenley in June, 1966.¹⁰

The next opponent for NFWA was the huge DiGiorgio Corporation. The boycott meant going against all DiGiorgio wine products and the affiliated S & W brand foods. A major obstacle in the strike was the difficulty of recruiting union members. The DiGiorgio Corporation forbid NFWA representatives from entering its property to organize. Three female NFWA members devised a plan to overcome this obstacle. A religious shrine consisting of a statue of Our Lady of Guadalupe with candles and flowers was set on the back of a pickup truck and parked outside the DiGiorgio property for two months. People were invited there to hear Mass. A 24-hour vigil was kept at the shrine, and many of the DiGiorgio workers stopped to pray. In the process, the workers were asked to join the strike, and several workers were successfully recruited.¹¹

In June of 1966, the DiGiorgio corporation announced its commitment to unions. The company would allow workers to vote for collective bargaining rights. DiGiorgio invited the powerful Teamsters Union to organize the workers. In collusion with DiGiorgio, the Teamsters opposed NFWA and bid to represent the workers. Election day was set by DiGiorgio, without consulting with representatives of NFWA. NFWA boycotted the election and urged its members not to vote. Out of 732 eligible voters, 385 voted, and 281 voters specified they wanted the Teamsters as their union agent. The NFWA immediately branded the election fraudulent.¹²

A second election was scheduled for August 30, 1966. Some weeks before the strike vote, Chavez became aware that the DiGiorgio campaign had drained the union’s financial resources. As a result, Chavez merged the NFWA and AWOC into a new organization known as the United Farm Workers Organizing Committee (UFWOC). In the election, the UFWOC clearly won a majority of the votes, resulting in the withdrawal of the Teamsters.¹³ A few months after the election, UFWOC signed a contract with the DiGiorgio Corporation. Within a year, eleven more contracts were signed with the major wine/grape growers of the San Joaquin Valley. In all, 8,500 workers were covered.

The signing of the DiGiorgio contract proved to be a significant event that galvanized farm workers in their efforts to unionize. After a five-year battle with grape growers of the San Joaquin and Coachella Valleys ensued, in June of 1970, with American Catholic bishops serving as mediators, Coachella Valley growers agreed to sign contracts, followed by growers in the San Joaquin Valley.

It was not until additional strikes, boycotts, fasts, and the deaths of farm workers,¹⁴ that the California state legislature in May of 1975 offered collective bargaining legislation for California farm workers.¹⁵ After years of struggle, Chavez and the United Farm Workers finally tasted the fruits of their labor. Throughout this struggle, the Catholic hierarchy did not take a stand on the rights

of farm workers to organize, even though a Catholic encyclical supported the rights of farm workers. In 1973 the American Catholic Church extended its support to California farm workers, as the National Conference of Catholic Bishops presented a farm labor resolution stating their support for free secret ballot elections. Each Catholic Bishop could offer his own interpretation of farm workers' rights within his own diocese that differed from the majority. This occurred in several dioceses throughout California.

A major theme to emerge out of the farm workers' struggle was an ethnic movement in search of political power to combat social injustices. The 1965 strike in Delano underscored the unique historical experience of Chicanos as described by Chavez:

It is clearly evident that our path travels through a valley well known to all Mexican farmworkers . . . because along this very same road, in this very same valley the Mexican race has sacrificed itself for the last hundred years . . . Now we will suffer for the purpose of ending the poverty, the misery, and the injustice, with the hope that our children will not be exploited as we have been . . . The majority of the people on our Pilgrimage are of Mexican descent, but the triumph of our race depends on a national association of all farmworkers. . . .¹⁶

As an oppressed and exploited group, Chicano farm workers sought to acquire the "tools" for political power in order to redress the subordinate status of farm workers. This understanding had a major impact on urban Chicano students.

In 1966, Chicano college students responded to the call for "social justice" in the fields. Many went to Delano to work with farm workers, and others began Huelga committees on their college campuses. According to Gustavo Segade,¹⁷ this marked the beginning of the Chicano movement. By 1967, student organizations such as Mecha and Mayo emerged with their own "ethnic agenda" that underscored a Chicano self-awareness and self-determination in the examination of dominant social institutions and their relationship to the Chicano community. Included in this analysis was a close examination of the American Catholic Church and its role in the Chicano community, out of which *Católicos Por La Raza* emerged.

The Emergence of *Católicos Por La Raza* in San Diego, California

The decade of the sixties introduced two new bishops into the Catholic diocese of San Diego. In September of 1963, Bishop Francis Furey was installed as Apostolic Administrator to the diocese and became bishop in March, 1966, upon the death of Bishop Buddy. Bishop Furey remained for only a short period. In June of 1969, he became Archbishop of San Antonio, Texas. As a result, Bishop Leo T. Maher became bishop of San Diego in August of 1969.

In 1969, Chicanos accounted for 50% of the 381,033 Catholic population in the San Diego Diocese.¹⁸ Out of the 160 parishes which comprised the diocese,

120 were listed as target parishes located in low-income and minority sectors of the diocese. Thus, the Church had ample opportunity to exercise its role as the servant of the poor.

However, poor Chicanos did not feel that their needs were being met. As a result, organized groups of Chicanos in the San Diego area came together at the Chicano Federation¹⁹ to bring their needs to the attention of the Church. While these needs included ministering to their spiritual and religious welfare, Chicano activists were more concerned that the Church should be involved in their social, educational, and economic development. The Federation approached Bishop Furey and requested that he establish a special office to specifically deal with and render services to oppressed minority groups. Two meetings were arranged between the Bishop and the Chicano Federation.

In addition, Father Raymond Moore, a member of the Diocese Social Action Committee, conducted a survey documenting the needs and number of the Spanish-speaking Catholic population in the diocese. A major accomplishment by Bishop Furey during his brief tenure as bishop was bringing about the formation of a senate of diocesan priests, whose role was to help and counsel on the issues affecting the diocese.²⁰ The facts derived from this survey, and the Chicano Federation's proposal for the establishment of an ethnic office, were endorsed by the Priests' Senate. The Priests' Senate petitioned the Bishop with a list of eight recommendations:

1. Establish the Ethnic Office proposed by the Priests' Senate of San Diego as a diocesan office.
2. Appoint a *native Mexican American* priest to head the Ethnic Office and he be free of all other responsibilities which could hinder him from devoting full attention to his work for minority groups.
3. Authorize and support this priest and his collaborators to preach in Diocesan Parishes with a two-fold aim in mind:
 - a) To educate the majority community in the needs, problems, and injustices suffered by minorities in the Diocese.
 - b) To appeal to these congregations for the financial and moral support for minorities.
4. Direct the University of San Diego to recruit and educate by providing financial and scholastic assistance to potential college students from underprivileged minority group families other than those already aided by federally funded programs at USD.
5. Immediately establish Chicano Studies in our entire Catholic school system.
6. Arrange for a weekly column and articles of interest to better educate the Anglo and the Spanish-speaking community. These articles are to be bilingual.
7. Abolish all national parishes in the diocese of San Diego.

8. Support the aims and goals of the Chicano Federation of San Diego, and the organizations therein and the Chicano community they represent.²¹

On August 1, 1969, Bishop Furey established the Diocesan Office of Ethnic Affairs (OEA). Father Patrick H. Guillen, a Chicano priest from San Salvador Church in Colton, California, was appointed director and given a budget of \$30,000 to staff and administer the office with an additional \$30,000 in ready reserve.²²

In the following months various organizational and planning meetings occurred. A Steering Committee made up of Chicano laymen, (Jose Becerra, Henri Jacot, Steve Moreno, and Pete Chacon) met with Father Guillen to work with the OEA until an Advisory Committee representing the entire diocese could be formed. They tentatively agreed that the OEA should be located at the State Service Center in San Diego because of the proximity of agencies serving the minorities there and for other economic reasons.²³ The committee was directed to investigate and discuss which area of concern (i.e., education, employment, housing, etc.) should be the primary focus of the OEA.

The Office of Ethnic Affairs' official existence was to serve as a channel of communication for breaking down racial or ethnic barriers among the people of the Diocese. It was entrusted with the responsibility of, in general, educating and informing both the clergy and the laity of the problems, aspirations, and needs of minority groups in the Diocese.²⁴ More specifically, the OEA held the goal of working toward improving the material status of the impoverished. This goal was to be accomplished by the Church itself initiating programs of social action, as well as by the existing governmental and grassroots or private programs.

In a letter to the diocesan administrator, Father Guillen outlined some of the intended operations of the Office:

The bulk of the work will be at the parish level, in conjunction with the priests of the area; and with other agencies, organizations and institutions. One of the chief target areas will be education and we will serve as coordinator for the Chicano Federation and the University and the parochial school system in promoting scholarships and tutorial programs dealing in Chicano history and other needed courses. Our office will coordinate with the probation and parole agencies and chaplains of the correctional institutions in providing a bridge between the institution and the parish and/or society. Another aspect of our program will be in securing minority membership in youth groups such as CYO, Legion of Catholic Action and Newman Clubs, and in developing both spiritually and socially oriented programs, such as retreat programs, the Cursillo movement, and also, social action programs, where the role of charity will be stimulated. We have, as a long range plan, to work toward the establishment of parish

councils, which would initiate programs dealing with ethnic groups and human relations, and inter-parish social action programs.²⁵

The administrative structure of the OEA included the diocesan director, a secretarial staff, and lay and religious personnel at the local and the diocesan level, who acted as liaisons between the Church and the community to coordinate and set up OEA sponsored programs. The office was supported by a grant from the diocese. Father Guillen's salary and travel expenses were met by the Diocese and not drawn from the grant funding the operating expenses of the OEA. Private foundations as well as governmental sources of funding were considered possible sources of future funding to augment the annual diocesan support.

The Office was accountable to: 1) the Senate of Priests, 2) the laity, and 3) the bishop. The office maintained its own autonomy. It was free to take official views on appropriate issues and to work at its own discretion with any organization.²⁶

The creation and formation of the OEA office represents an openness on behalf of a bishop who actively promoted lay involvement in his diocese. The times were ripe for the Chicano Catholic community to exert their presence in the church. Chicanos were forcing the Church to become more involved in the everyday struggles of people in the barrio who for the most part were Catholic. At the worst, Chicanos felt that they had been neglected and, at the least, taken for granted. They were beginning to ask: "Is the institutional Church Christian, or is it just another paternalistic white racist institution?"²⁷ The Church was viewed as an obstacle to the Chicano struggle for social, political, and economic independence.²⁸ Chicanos were asking the Church to redistribute its concentrated wealth and to appoint Chicano clergy in positions of power within the Catholic hierarchy.

As one of the wealthiest institutions, the Catholic Church was relegating poor Chicanos to a second class position of servitude:

The Catholic Church through its paternalistic attitude has been milking the Mexican American barrio since the day of the conquistadors. They have continually held out their hand in the name of God and asked for contributions but have not invested in solving the problems of the barrio.²⁹

A clear sign of progress for Chicanos in the American Catholic Church was the integration of Chicano clergy and laity in positions of authority beyond the local Church and over non-Chicano Catholics. Hence, the Chicano community was asking for the immediate appointment of indigenous Spanish-surname clergy to the American Catholic hierarchy.³⁰

It was justice that Chicanos were demanding from the Catholic Church, meaning the involvement of the church's institutional wealth and power in areas affecting Chicanos, such as the farm workers' struggle. For Chicanos, the Church's apathy toward the farm workers' struggle was racist:

The present silence of the Catholic Church on the farm workers, a contemporary version of slavery, can only be defined as non-commitment and racism.³¹

Therefore, the role of the Church as prescribed in the Chicano community was to:

. . . apply pressure directly or indirectly to introduce and support legislation which will benefit the well being of Mexican Americans who need better living wages, better health and housing conditions and collective bargaining power.³²

Chicanos were challenging a church which promoted itself as a servant church, that is, a church of the people, to practice what it preached. In their eyes, "true Christianity" demanded that the institutional power and wealth of the Church be brought to bear in solving the current Chicano urban and rural crisis.³³

Among the different service programs which the OEA offered in response to this challenge was a plan for minority leadership training. A Seminar Planning Committee planned a leadership conference for Chicanos to be held at Camp Oliver in Descanso, California. The hoped-for outcome of the seminar according to one of the lay committee members was to be increased unity and better communication among Chicanos.³⁴ Father Guillen, through the OEA, arranged the accommodations and financed the weekend conference held November 28-30, 1969.

The conference was announced as a "junta" aimed at self-evaluation of the Chicano Movement by Chicanos. A flyer, released by the Comité de la Raza Unida Para El Progreso, announcing the conference declared:

If the Chicano Movement is to be representative of an effort by the Chicano community, for Chicanos, we the community are going to have to honestly evaluate ourselves, our commitment, as well as our collective goals as Chicanos. To affect any progress we have to exert ourselves as a community. Appropriately our first test and triumphs will be this junta.

This junta is being planned to encourage open and frank discussion and exchanges to bring this (i.e., frustrations, despair, anger) out into the open because we believe that this turmoil, if kept within, will eventually create a permanent division in the Chicano community which would certainly devour La Causa. If we are honest, sincere in our commitments and goals as true Chicanos we must take this giant step towards unity. Unity in Thought. Unity in Action, and Unity in Progress.³⁵

The site of the conference was Camp Oliver, a youth camp owned and operated by the Sisters of Social Service, located about thirty miles east of San Diego. As the conference evolved, numerous participants decided to coalesce—as Católicos Por La Raza (CPLR)—in their commitment to the Chicano movement and in their determination to make the Catholic Church accountable to Chicanos. According to one participant, college administrators and community organizers made up the bulk of individuals who decided to "liberate the camp."³⁶

As a result, six young Chicano students (five men, and one woman) decided to seize the main building at Camp Oliver, on Sunday, November 30, 1969, and issued a statement renaming the camp Campo Cultural de La Raza.³⁷ The takeover was deemed valid by the Chicano Catholics because they felt "the Church is the people and therefore all the resources and properties belong to the people."³⁸ They calculated that with at least one million Chicanos in the Southwest attending Church each Sunday and with each contributing one dollar, the Catholic Church would stand to reap a million dollars per Sunday from Chicanos alone.³⁹ It was this type of gross injustice and insensitivity, not the Church, per se, which CPLR wanted to attack. They asserted:

We do not attack the Church's theological concepts or Church teaching concerning the spiritual welfare of the people. However, we do assert that the Church has failed in its worldly responsibility.⁴⁰

A statement of their grievances and a list of demands (the original eleven demands were expanded to the thirteen listed below) were sent to the bishop. The *Católicos Por La Raza* demanded:

1. The possession of Camp Oliver and its transfer of title immediately to the Centro Cultural de La Raza.
2. That the Catholic Church, via the Order of the Sisters of the Social Service, continue to pay the upkeep costs of the Camps, including caretaker services, and that from now on the caretakers be Chicanos.
3. That the Catholic Church immediately cease exploitation practices of the Chicano community as manifested by employment at Camp Oliver of Chicanos at wages of \$3.00 per day and the exploitative employment practices of Chicanos at other institutions.
4. That a rider be included in all legal transactions that the Catholic Church is not absolved of other responsibilities due the Chicano population, and that the transferring of Camp Oliver to Chicanos be only the beginning step for future community control of its lands and other properties.
5. That the schools run by the different orders of Priests and Nuns as well as the Catholic Church will announce:
 - a. Open enrollment for all Chicano children.
 - b. Free textbooks to all Chicano children enrolled in its schools.
 - c. Free uniforms to all Chicano children enrolled in its schools.
 - d. That immediate steps be taken for Catholic schools, at all levels, to begin to plan for community control and that a time table be jointly prepared in which this can be implemented.
6. That the Catholic Youth Organization, CYO, respond to the needs of the Barrio residents particularly those who are socially

and economically discriminated and that this organization immediately orient itself to social action work.

7. That the Catholic hospitals provide free medical and free hospitalization services to Chicano families and individuals who can pay some fees for the above mentioned services.
8. That the Catholic Church immediately release monies to develop controlled development corporation to initiate:
 - a. cooperatives
 - b. credit
 - c. housing projects
 - d. communication enterprises such as radio stations
9. That Burial Service be given free to Chicanos that are not economically viable due to Institutional Racism.
10. That Chicano laymen and priests be considered for top decision-making positions of present and future programs started by the Church.
11. That socially-oriented priests be jointly selected by the community and the Bishop for hierarchial positions, e.g., Monsignor and Auxiliary Bishops.
12. That the Catholic Church come out publicly in support of the Delano Grape Boycott and that it begin an active campaign to support the efforts of the United Farm Workers Organizing Committee.
13. That the Catholic Church immediately fund the Drug Abuse project for the rehabilitation of addicts as developed by Henry Collins, member of the Chicano Community.⁴¹

On Monday, December 1, 1969, when the activists refused to vacate the premises, the local sheriff was called to order them to leave. Six CPLR activists were arrested. However, no charges were pressed against the six and they were released within several hours. A call went out to the Chicano community to support the CPLR. Chicano students responded, and for over a week protests were held in front of Bishop Leo Maher's office, at the Chancery, on the campus of the University of San Diego, at the Bishop's home in Mission Hills, and on the outskirts of Camp Oliver. Chicano student organizations (MECHA-MAYA), in particular the group at San Diego State University, were instrumental in organizing and mobilizing groups of people.

Immediately, public statements were made by the Bishop and the Chicano community. There was little cooperation from either side. Chicanos asked Bishop Maher to attend a meeting at Camp Oliver, but he refused. The Bishop asked to meet with a small group, representative of the Chicano community, but they refused. The Bishop was able to meet with a group of "friendly Spanish-

speaking people” out of which he announced the formation of an advisory committee of lay citizens, from the diocesan office of Ethnic Affairs, representing all ethnic and minority groups in the diocese. In addition, the Bishop announced the possibility of creating a Mexican American cultural center at the University of San Diego.⁴²

At first, the Catholic hierarchy in San Diego denounced CPLR as “militants” and referred to the thirteen demands as “illogical.” The local hierarchy announced that CPLR had “no real direction” and that they were going to meet with the only legitimate voice of the Chicano community—the Chicano Federation. But when the leadership from the Federation announced their support for CPLR and directed the Bishop to meet with representatives of CPLR, the Bishop had no choice but to meet with them.⁴³

As a result, Bishop Maher, accompanied by his secretary Father Roger Lechner, met with students at the Catholic Newman Center on the campus of San Diego State University on December 12, 1969. Present were about 150 Chicano students representing MECHA-MAYA and CPLR. Met with placards and the sound of chanting and clapping, the Bishop informed the group that he was expecting to meet with a small group with which he could sit down and talk.⁴⁴ Suddenly a man in the crowd shouted:

We were freezing our butts off out there [in Descanso] waiting to talk with you. You didn't come! Where were you? Chicanos have slaved for the Church in America. But you've put up idols, you've taken our money, charged us for baptism, communion, and even for the very last event, even for death itself!⁴⁵

The Bishop responded with a \$1 million figure as representative of free medical treatment for San Diego Chicanos at Mercy Clinic, the Catholic hospital in San Diego. The Bishop was then asked: “Are you willing to meet with our committee?” The question was met with silence. The question was repeated: “Will you talk with us?”

The Bishop responded that he would meet with the committee in his office, to which many members of the group cried: “Meet us in the barrio!” “I don't want to meet in the barrio. I have an office,” replied the Bishop.⁴⁶

It was very quiet as a man stepped forward and asked Bishop Maher, “Are you an emissary of Jesus Christ?” “I am,” he replied. “Then I ask you,” continued the man, “did Jesus Christ ask the people to come to him? No! Christ went to them. Come to the barrio!” Within a few minutes a meeting was arranged that evening at Our Lady of Guadalupe parish in the Mexican American community.⁴⁷

At the meeting, CPLR presented the Bishop with their original demands. The Bishop responded with a compilation of what the Roman Catholic diocese of San Diego was doing for the Mexican American Community. He informed the group that the Church was very involved in social action programs through its Office of Ethnic Affairs and Headstart Program. Nothing significant emerged from this meeting.

Approximately two weeks later, on Christmas Eve, a major confrontation emerged once again between Chicanos and the Catholic Church. This time it was

ninety miles north at St. Basil Cathedral in downtown Los Angeles. CPLR in Los Angeles sought to challenge the wealth of the Los Angeles Archdiocese and its insensitivity towards the Chicano community. Gathering at Lafayette Park, 350 Chicanos(as) marched to the steps of St. Basil's Church to perform a prayer vigil. As the service was about to begin, demonstrators attempted to enter the church, only to discover that they had been locked out by the ushers. When a few of the demonstrators gained entrance, they were met by off-duty sheriff deputies who were armed and carrying clubs that were used to expel the demonstrators. There were injuries, and police arrested twenty-one demonstrators, twenty of whom stood trial for disturbing the peace and assaulting police officers.⁴⁸

Although CPLR activities in Los Angeles are beyond the scope of this discussion, it is important to note that there existed a consensus as to the role of the Church in both Chicano communities of Los Angeles and San Diego. There were numerous channels of communication between Chicano students, faculty, and administrators from the various universities in Los Angeles and San Diego. As in San Diego, CPLR in Los Angeles committed itself to one goal:

The return of the Catholic Church to the oppressed Chicano community. In other words, we are demanding that the Catholic Church merely practice what it preaches and that it align itself economically and spiritually with the Chicano movement.⁴⁹

As in San Diego, CPLR in Los Angeles felt that the American Catholic hierarchy must become intimately involved in the farm workers' struggle in Delano. Poor people's struggles such as the farm workers' movement were in need of spiritual advice; for without it "... families crumble, leadership weakens, and hard workers grow tired."⁵⁰ As other issues took precedence for Chicanos in San Diego, Chicano activists began to channel their energies into other social causes. Nonetheless, a new era had begun for Chicano/Mexican American Catholics in the American Catholic Church. The philosophy of self-awareness and self-determination offered by Cesar Chavez and the Chicano movement (1967-72) validated and legitimized the identity of Chicanos as members of the American Catholic Church. It was the starting point for Chicanos gaining access into the Catholic hierarchy.

As a direct result of the Camp Oliver incident in San Diego, El Centro Padre Hidalgo was established by the San Diego Catholic Diocese to serve the Chicano/Mexican American Catholic community in 1972. Under the direction of Father Juan Hurtado, the main function of the center was to provide social service assistance, leadership development, and legal services. The Centro was very effective during its early years of development.

In addition, on April 16, 1974, Msgr. Gilbert Chavez was appointed the new auxiliary bishop of the San Diego Catholic Diocese. Gilbert Chavez was only the second Mexican American bishop elevated to the hierarchy. The appointment of Bishop Chavez came about through a mobilized effort from Mexican American/Chicano Catholics who voiced their desires for a Mexican American bishop.⁵¹

Analysis and Conclusion

From 1965 through 1970, Chicanos were a poor and segmented population with few resources, in search of political and economic power. As a result, symbols were implemented and manipulated through the political process in order to procure political and economic empowerment.⁵² For example, religion played an integral part in the farm workers' movement. Religious symbolism functioned to empower an otherwise powerless group, as exemplified in the famous farm workers march of 1966 to Sacramento, interpreted by some as a lenten penitential procession for which the participants would be rewarded by God. It was an act of faith for the faithful who sought decent wages and adequate working conditions:

In every religious-oriented culture, the pilgrimage has had a place, a trip made with sacrifice and hardship as an expression of penance and of commitment, and often involving a petition to the patron of the pilgrimage [Our Lady of Guadalupe] for some sincerely sought benefit of body and soul.⁵³

These expressions were non-official religious actions and symbols meaningful only within the farm workers' struggle. These religious expressions took on a political and economic character because the American Catholic hierarchy did not officially embrace the ideals of "La Causa" due to their loyalty towards the Catholic growers.

This perspective helped young urban Chicanos formulate their ideas regarding the role of the American Catholic Church in relation to the Mexican American community. One CPLR member at Camp Oliver recalls referring to the now famous article: "The Mexican American and the Church" (1966) by Cesar Chavez, for formulating their thirteen demands.⁵⁴ In addition, CPLR in Los Angeles was also influenced by Chavez and the farm workers' movement. Ricardo Cruz organized CPLR based on his personal religious convictions. As a law student, Cruz was helping organize farm workers in Salinas, California, where he met Cesar Chavez. Chavez was concerned that the Catholic Church had not publicly backed the UFW boycott. Cruz promised to see what he could do to get Church support.⁵⁵ As a result, CPLR challenged the ideals and principles of Roman Catholicism. In essence, they challenged the Church to practice what it preached. As a result, justice for the Chicano community meant a transformation of the institutional church that preached the gospel of the status quo into a prophetic church that demanded economic, political, and social change for Chicanos.

The conflict that emerged between CPLR and the San Diego Catholic diocese did not worsen the relationship between the Mexican American community and the Church—it actually started one. As one individual involved in the conflict states, for the Church:

The Mexicans were the nice little Mexicans leaning on a cactus praying to Guadalupe and they got a big awakening that made them aware they had to do something.⁵⁶

As a result, the Catholic hierarchy has changed and now realizes that the needs of Chicanos can no longer be ignored. After all, they are the largest group within the Church. Since this period, Chicanos have gained entree into the hierarchy of the American Catholic Church, and the hierarchy has recognized the importance of the "Hispanic Presence" in the Church as is echoed in the Bishop's pastoral letter for Hispanics. However, the question remains if this message of "justice" guides Catholic church leaders, or has it been incorporated, redefined, and institutionalized by the American Catholic hierarchy? Whatever the case, it is certain that the actions by Católicos Por La Raza have had a lasting impact on Chicano-church relations.

Notes

¹John Gregory Dunne, *Delano* (New York: Farrar, Strauss and Giroux, 1972), chapter 7.

²Jerome B. Ernst, "Worthy of His Hire," *Extension Magazine* 61 (June 1966): 11-15.

³Patrick McNamara, "Dynamics of the Catholic Church: From Pastoral to Social Concerns," in *Mexican American People*, ed. Leo Grebler, et al. (New York: Free Press, 1970), 449-85.

⁴McNamara, 464.

⁵McNamara, 465.

⁶McNamara, 465.

⁷McNamara, 465.

⁸Dunne, 82-83.

⁹Ernst, 12.

¹⁰A few months before the signing of this contract, California's seven bishops, including Bishop Willinger, released a statement on March 16, 1966, laying down the Church's position on farm labor. It called for legislation to bring farm workers under the jurisdiction of the National Labor Relations Act. They stated: "This act will not only solve the farm labor problem, but it would be the first giant step toward a solution. It is becoming evident that unless farm workers are given the chance to organize, they are going to become wards of the state." Dunne, 83.

¹¹Dunne, chapter 7.

¹²Rodolfo Acuña, *Occupied America* (New York: Harper and Row, 1981), 270.

¹³According to McNamara, Father Vizzard was successful in mobilizing nationwide support from the Catholic hierarchy for NFWA and pressuring the Teamsters to withdraw from the DiGiorgio labor dispute. Patrick McNamara, *Bishops, Priests and Prophecy: A Study in the Sociology of Religious Protest* (Ph.D. diss., University of California, Los Angeles, 1968), 143.

¹⁴On August 14, 1973, a UFW striker from Yemen, Dagi Daifullah, 24, died from massive head injuries inflicted by Kern County Deputy Sheriff Gilbert Cooper. Two days later, a young man in a pick-up shot four times into the UFW pickets, killing Juan de la Cruz, 60 years of age. The strikes were protesting the Teamsters signing with Gallo in the San Joaquin Valley. Acuña, 275.

¹⁵The California state legislature passed a bill which included the following provisions: 1) An Agricultural Labor Relations Board would be established to supervise elections. Both seasonal and permanent farm workers would vote at the peak of the harvest season. Elections would occur within one week of the worker's petition for an election. Auxiliary Bishop Roger Mahoney of the Fresno Catholic diocese was appointed chairman by Governor Brown. 2) Secondary boycotts would be restricted to employers refusing to negotiate after the UFW had won the election. 3) The board would recognize one industrial bargaining unit per farm. 4) Workers under Teamsters of UFW contracts could petition for an election which could result in decertification of a union as a bargaining agent and nullification of existing contracts. Acuña, 276.

¹⁶Cesar Chavez, *Basta! La Historia de Nuestra Lucha: Enough! The Tale of Our Struggle* (Delano: Farm Worker Press, 1966), 9, 24, 56.

¹⁷Gustavo Segade, "Identity and Power: An Essay on the Politics of Culture and the Culture of Politics in Chicano Thought," *Aztlan* 9 (September 1979): 85-99.

¹⁸"Social Justice: A Challenge to Catholics." Seminar (1969) Office of Ethnic Affairs. Diocesan Ethnic Affairs File. San Diego Catholic Diocese.

¹⁹The Chicano Federation is an organization which began in 1968 out of the felt need of the Chicano community to address issues in a unified and positive manner. It was designed as the advocate structure through which the Chicano community could come together and voice its needs and concerns.

²⁰Bishop Furey was also instrumental in pushing for the formation of parish councils.

²¹Priest Senate Recommendations, July 15, 1969, Diocesan Ethnic Affairs (1969-71) File. San Diego Catholic Archives.

²²"Social Justice: A Challenge to Catholics." Seminar (1969) Office of Ethnic Affairs. Diocesan Ethnic Affairs (1969-71) File. San Diego Catholic Diocese.

²³Pete Chacon, Memo to Church Committee, August 19, 1969, Católicos Por La Raza File. Personal Files of Gus Chavez.

²⁴The Office of Ethnic Affairs, Report to Priests and Religious in The Diocese of San Diego, September 1970, Diocesan Ethnic Affairs (1969-71) File. San Diego Catholic Archives.

²⁵Patrick H. Guillen, Letter to Rev. John Quinn, Diocesan Administrator, August 23, 1969, Diocesan Ethnic Affairs (1969-71) File. San Diego Catholic Archives.

²⁶"Social Justice: A Challenge to Catholics." Seminar (1969) Office of Ethnic Affairs. Diocesan Ethnic Affairs (1969-71) File. San Diego Catholic Archives.

²⁷"The Catholic Church and La Raza," *La Verdad* 1 (November 1969): 4-5.

²⁸*La Verdad*, 4-5.

²⁹*La Verdad*, 4-5.

³⁰*La Verdad*, 4-5.

³¹*La Verdad*, 4-5.

³²*La Verdad*, 4-5.

³³*La Verdad*, 4-5.

³⁴FLYER: Announcement of the Camp Oliver Retreat. Comité De La Raza para El Progreso Chicano. (1 November 1969) Católicos Por La Raza File (1969). San Diego Catholic Archives.

³⁵FLYER: Announcement of the Camp Oliver Retreat. Comité De La Raza Para El Progreso Chicano. (1 November 1969) Católicos Por La Raza File (1969). San Diego Catholic Archives.

³⁶"The Camp Oliver Take Over," *La Verdad* 1 (December 1969): 95-113.

³⁷According to one Chicano activist, the idea of the takeover came from the leadership at the conference. The son of one of the participants was telephoned and asked to gather people and bring them to Camp Oliver. C. de Baca, Vincent, Personal Interview, May 5, 1986.

³⁸Centro Cultural de La Raza, Telegram to Leo T. Maher, Bishop of San Diego, 30 November 1969, Chicanos: Camp Oliver, (1969) San Diego Catholic Archives.

³⁹Centro Cultural de La Raza, Telegram to Leo T. Maher, Bishop of San Diego, 30 November 1969, Chicanos: Camp Oliver, (1969) San Diego Catholic Archives.

⁴⁰Centro Cultural de La Raza, Telegram to Leo T. Maher, Bishop of San Diego, 30 November 1969, Chicanos: Camp Oliver, (1969) San Diego Catholic Archives.

⁴¹Centro Cultural de La Raza, Telegram to Leo T. Maher, Bishop of San Diego, 30 November 1969, Chicanos: Camp Oliver, (1969) San Diego Catholic Archives.

⁴²"Bishop Maher Plans to Meet Chicano Leader on Protest," *San Diego Union* (December 1969).

⁴³"Confrontación Con La Iglesia," *La Verdad* 1 (December 1969): 9.

⁴⁴Francis Hayes, "Chicanos Confront Bishop Maher Here," *Daily Aztec*, 10 December 1969.

⁴⁵Hayes, 1.

⁴⁶Hayes, 1.

⁴⁷Hayes, 1.

⁴⁸David F. Gomez, *Somos Chicanos: Strangers in Our Own Land* (Boston: Beacon, 1969), 155-176.

⁴⁹"The Church: The Model of Hypocrisy," *La Verdad* 1 (December 1969): 9.

⁵⁰*La Verdad*, 9.

⁵¹In July of 1978, San Bernardino County was split from the San Diego Catholic Diocese and made into a separate diocese. A protest arose among Mexican American priests and the lay community as Father Philip Straling was named Bishop of the new diocese. The Mexican American community expected Auxiliary Bishop Chavez, who had lived four years in San Bernardino prior to the split, to automatically become the new Bishop. This event in itself is an excellent topic for analysis. Joseph Applegate, "Hispanics: Pick More of Us to be Leaders," *National Catholic Reporter*. 29 September 1978.

⁵²David Kowaleski, "The Protest Uses of Symbolic Politics: The Mobilization Functions of Protesters Symbolic Resources," *Social Science Quarterly* 61 (June 1980): 95-113.

⁵³Ernst, 11-12.

⁵⁴C. de Baca, Vincent, Personal Interview, May 5, 1986.

⁵⁵Lawrence Mosquesda, *Chicanos, Catholicism and Political Ideology* (Ph.D. diss., University of Washington, 1979), 190.

⁵⁶Gustavo V. Segade, Personal Interview, May 14, 1986.

Obasan: The Politics of the Japanese-Canadian Internment

Ann Rayson

Joy Kogawa is a well known Japanese-Canadian poet and novelist. Her award-winning autobiographical novel, *Obasan* (1981),¹ examines the personal wartime internment experience of the author through the fictionalized persona of Naomi Nakane and her Aunt Emily Kato. *Obasan*, the title character, is Naomi's other aunt, the one who raises her when World War II destroys the family. Emily is a political activist, the voice of protest and conscience in the novel, while the narrator, Naomi, has to work through her own silence and that of all Japanese-Canadians. As a novel with a dual voice, *Obasan* is able to probe the politics of the internment experience and its effect on the country as a whole as well as to demonstrate the internal, private damage to these loyal citizens who, as a minority group, kept their suffering quiet and were obedient. As Myrna Kostash says in "Japanese-Canadians: The Wartime Scar that Won't Heal":

This is a country in which it was possible to be a thinking, reading, inquiring person and not know, until the 1970s, of the Events. Not know that the Japanese of Alberta were not voluntarily among us. Not know of the plethora of Orders-in-Council that had emanated in a steady stream from the Cabinet of Makenzie King's government in the '40s. They were orders that began, nine days after Pearl Harbor at the end of 1941, with the registration as "enemy aliens" of *all* persons of Japanese origin (including citizens and the Canadian-born) and that concluded in 1949, when Japanese-Canadians were finally given the unconditional right to vote in federal elections. Not know of the trauma endured by some 23,000 people in our own midst.²

Although there have been capable non-fiction works published in Canada since 1970 about the internment, Joy Kogawa's book is the first novel to be written about the evacuation, internment, and dispersal of Canada's Japanese

during the war. *Obasan* is by far the most powerful fictional account of either the American or Canadian internment of citizens. Interestingly enough, and for a variety of reasons, most accounts of this historical event are autobiographical and most are by women. Autobiographies by the American writers Jeanne Wakatsuki Houston, Mine Okubo, Monica Sone, Yoshiko Uchida, and Akemi Kikumura have filled this gap in our knowledge, but Kogawa's novel treats this experience in an exceptional way.

Some brief background on the Canadian policy helps to explain Emily Kato's shocking statements in *Obasan*. "I hate to admit it," she says, "but for all we hear about the States, Canada's capacity for racism seems even worse."

The American Japanese were interned as we were in Canada, and sent off to concentration camps, but their property wasn't liquidated as ours was. And look how quickly the communities reestablished themselves in Los Angeles and San Francisco. We weren't allowed to return to the West Coast like that. We've never recovered from the dispersal policy. But of course that was the government's whole idea—to make sure we'd never be visible again. Official racism was blatant in Canada. The Americans have a Bill of Rights, right? We don't.³

There were 23,000 Japanese-Canadians in 1941 and about five times as many Japanese Americans. On January 14, 1942, for the consideration of "military necessity," Ottawa announced that all Japanese male nationals aged 18-45, including World War I veterans, would be removed from the coast by April 1.

Order-in-Council P.C. 1486 empowered Minister of Justice Louis St. Laurent to evacuate from the 100-mile strategic zone of the B.C. coast *all* Japanese-Canadians. Order-in-Council P.C. 469 liquidated all their property. Internment camps were prepared in the Slocan Valley for women and children; able-bodied men were sent off to work camps. Families who wanted to stay together "volunteered" for the sugar-beet fields. In 1945, those still in the camps were given the choice of deportation to Japan or dispersal to "white" Canada, east of the Rockies. In 1950, the government announced it would pay out some \$1,200,000 as compensation for property losses on claims made by a minority of Japanese-Canadians that had totaled over \$5 million. "What this country did to us," says a character in *Obasan*, "it did to itself."⁴

The result of this policy of internment and dispersal was the death of a viable culture. For example, in 1941 8,500 Japanese-Canadians lived in Vancouver; in 1951, only 873 were left. In 1941, the Japanese population was two-thirds of the Chinese population; in 1971 it was only one-third of the Chinese population. "Soon we're going to disappear as an identifiable group," says Kiyoshi Shimizu, a social worker in Ottawa. "We're going to be lumped, in the census, under the category of 'Others.'"⁵

Since World War II Japanese Canadians have pursued acculturation with a vengeance. Inter-marriage is at the astonishingly high rate of 70-80%. The Japanese Canadians, like the Japanese Americans, are described as the “ideal” citizens, well-educated professionals, yet many Japanese Canadians have likened their wartime experience to rape and still experience the negative results of that personal invasion. According to sociologist Gordon Hirabayashi, the Issei didn’t get out of the internment camps psychologically until the 1980s, because the experience resulted in a “social rape” whereby the victim wants to bury the past because of the personal shame and sense of degradation rather than to take to the streets demanding justice. This response also explains existing stereotypes of Japanese social behavior in which silence and obedience are stressed; “it can’t be helped,” *Shigata ni gi*, so make the best of it. The rape victim first blames herself, not her victimizer, for what happened.

In 1971, with the publication of Shizuye Takashima’s *A Child in Prison Camp*, the remembering began in Canada. The third generation Sansei in Canada and America both led the fight for reparations. In 1977 some Nisei worked on a photographic exhibit, “A Dream of Riches,” commemorating 100 years of Japanese settlement in Canada just as the American exhibit, “Executive Order 9066,” opened up this chapter of American history in 1969. From this Centennial Project grew the Redress Committee which, in 1982, circulated a pamphlet in the Japanese-Canadian communities to stimulate discussion. The publication of Joy Kogawa’s novel suggests there is less reluctance to face this experience, although Kogawa herself says that Japanese Canadians don’t want to read this book because they don’t want to be reminded. “They don’t want to talk about it, think about it, write about it. If I hadn’t written it, I probably wouldn’t read it! ‘Give the pain to somebody else, let us live’ is what I think they’re saying.”⁶

Much of *Obasan* is about speech and silence, the two ways of dealing with social rape or cultural genocide. Until recently, the Japanese-Canadian response has been silence and, as a result, this history was buried, unavailable, or not understood. The second and third generations, particularly the Sansei, have emerged and have begun to speak out and write with indignation. The history is known. However, it has taken Joy Kogawa to make the reader *feel* and live this history through the fictionalization of her own childhood.

Aunt Emily Kato, Naomi’s mother’s younger sister, serves as the conscience and political voice of the novel. Through her, the reader gets this history in snatches. Through Emily, both the reader and the narrator learn of the horrible slow death her mother, stranded in Japan since 1941, suffers from the attack on Nagasaki in 1945. In the novel’s opening scene, Naomi is informed at school of her uncle’s death. It is August 9, 1972. She goes to visit Obasan, now in her 80s, and the family history, which has been kept back from the “children,” begins to emerge in flashback, piece by piece, as Naomi starts to read Aunt Emily’s long withheld papers, diaries, and letters.

In 1941 Naomi Nakane was a five-year old child surrounded by love and comfort in Vancouver. In September, her mother sails to Japan to visit an ailing grandmother and Naomi never sees or hears from her again. By 1942 the entire

family is hopelessly sundered. Naomi's father is sent to a work camp. His parents are interned in the Livestock Buildings at Vancouver's Hastings Park prison, an experience they do not long survive. Aunt Emily and her father are sent to Toronto. Naomi and her brother Stephen end up in the care of an uncle and her aunt, Obasan, in a small house in Slocan, British Columbia, an old ghost town which has been opened up for the internees.

In 1945, when they have begun to adapt, they are ordered to relocate to Granton, Alberta. About her years in a one-room shack on a beet farm here, Naomi writes "I cannot bear the memory. There are some nightmares from which there is not waking, only deeper and deeper sleep" (194). Nevertheless, she communicates the brutal enslavement of this harsh physical routine as she goes on to describe the details of this existence, moving from sleep or silence to speech.

Eventually Naomi becomes "Miss Nah Canny," a repressed school teacher in Cecil, another small Alberta town 150 miles north of Granton, living out her days in a cultural vacuum. She describes herself thus:

Marital status: Oldmaid. Health: Fine, I suppose. Occupation: School teacher. I'm bored to death with teaching and ready to retire. What else would anyone want to know? Personality: Tense. Is that past or present tense? It's perpetual tense. I have the social graces of a common housefly. That's self-denigrating, isn't it (7).

Stephen, on the other hand, has become a successful classical musician, has travelled the world performing, and now lives with his Parisian girlfriend in Montreal. His response to the pressure of the past is literally to run away from it. Once, while visiting Obasan, he gets up in the middle of the night and runs out from the shack in panic and down the road. Escape from memory and the past is only superficial.

At the end of the novel, with Naomi, we learn what became of her mother and the full horror of the Japanese experience hits. Naomi's mother and grandmother, along with other relatives, were in Nagasaki when the atom bomb was dropped on August 9, 1945. Her mother, taken to a hospital and expected to die, survives. She is so deformed that she wears a cloth mask for the rest of her brief life and refuses to communicate with her children. When she is finally allowed to return to Canada in 1950, she no longer wants to. About the same time Naomi's father has died of an operation in a distant hospital. Since 1942 he has only been with his children for a brief month or two in Slocan in 1945. About her mother, who died in 1950 or 1951, Naomi says:

There is no date on the memorial stone. There are no photographs ever again. 'Do not tell Stephen and Naomi,' you say. 'I am praying that they may never know.' . . . Martyr Mother, you pilot your powerful voicelessness over the ocean and across the mountain, straight as a missile to our hut on the edge of a sugar-beet field. You wish to protect us with lies, but the camouflage does not hide your cries. Beneath the hiding I am there with you (241-242).

This ending takes us full circle.

In the beginning, when Naomi is four, her life is secure and idyllic except for the secret presence of evil in the shape of Old Man Gower, the lecherous man next door. Naomi reveals, "Every time he carries me away, he tells me I must not tell my mother. He asks me questions as he holds me but I do not answer. It is not an isolated incident. . . (62). If I speak, I will split open and spill out . . . (63). I am ashamed" (64). This becomes the heavy secret, the one thing that Naomi cannot tell her mother. These episodes cut Naomi off from her mother long before the war begins. Naomi says:

But the secret has already separated us. The secret is this:
I go to seek Old Man Gower in his hideaway. I clamber
unbidden onto his lap. His hands are frightening and
pleasurable. In the centre of my body is a rift (65).

Years later there is Percy in Slocan who also traps Naomi, and she tells us there are others. Naomi admits that these encounters fill her "with a strange terror and exhilaration" (61). As an adult she has dreams of flight, terror, and pursuit, believing "The only way to be saved from harm was to become seductive" (61), the defense of the victim.

On another level, Old Man Gower can be seen as an image for the Canadian government separating the Japanese Canadians from each other in the great dispersion of World War II and making them feel ashamed and that somehow they were to blame for what happened to them. Jeanne Houston addresses the victim's internalization of ill treatment in *Farewell to Manzanar* by saying:

You cannot deport 110,000 people unless you have stopped seeing individuals. Of course, for such a thing to happen, there has to be a kind of acquiescence on the part of the victims, some submerged belief that this treatment is deserved, or at least allowable. It's an attitude easy for nonwhites to acquire in America. I had inherited it. Manzanar had confirmed it.⁷

As Gower is responsible for Naomi's separation from her mother, so the Canadian directives and the horror of war itself have decimated a once viable Japanese-Canadian culture and community. Naomi, however, believes that she must deserve this treatment; therefore, she may even subconsciously be responsible for the outcome. In her adult naiveté, Naomi reveals the depth of her own problem:

People who talk a lot about their victimization make me uncomfortable. It's as if they use their suffering as weapons or badges of some kind. From my years of teaching I know it's the children who say nothing who are in trouble more than the ones who complain (34).

What Naomi learns is that her silence has been her undoing, just as her mother's silence has orphaned her. Rather than protect the children, this misguided silence has cut them off from love, caring, and their own history. Naomi now carries on monologues with her mother:

Silent Mother, you do not speak or write. You do not reach through the night to enter morning, but remain in the voicelessness. . . . By the time this country opened its pale arms to you, it was too late. First you could not, then you chose not to come. Now you are gone. . . . Gentle Mother, we were lost together in our silences. Our wordlessness was our mutual destruction (241, 243).

Joy Kogawa overturns the meaning and purpose of the Japanese phrase, *Kodomo no tame*—for the sake of the children—*gaman shi mashi*—let us endure, because to save the children from the knowledge of her fate, Naomi's mother has left her children in the darkness of the unknown, in Old Man Gower's lap, until it is much too late. Through this process of remembrance and revelation, Naomi, and the author, free themselves from victimization by speaking out. Aunt Emily is vindicated.

While it would not work fictionally for Joy Kogawa to write in the genre of the protest novel, she is able to present her experiences artfully through Naomi and at the same time the historical facts through the militant indignation of Emily, made all the more real by Naomi's disinterest in protest and weary tolerance of Emily's meetings and speeches about the redress due Japanese Canadians. For example, Naomi says of Emily:

How different my two aunts are. One lives in sound, the other in stone. Obasan's language remains deeply underground but Aunt Emily, BS, MA, is a word warrior. She's a crusader, a little old grey-haired Mighty Mouse, a Bachelor of Advanced Activists and General Practitioner of Just Causes (32).

Emily uses the language of truth to discredit the government's perversion of language when she protests the use of language to disguise reality:

"Now look at this one," she said. "Here's a man who was looking for the source of the problem in the use of language. You know those prisons they sent us to? The government called them 'Interior Housing Projects'! With language like that you can disguise any crime" (34).

Yoshiko Uchida in her American autobiography, *Desert Exile*, makes the same point:

The term "evacuation" was the Army's official euphemism for our forced removal, just as "non-alien" was used when American citizen was meant. "Assembly center" and "relocation center," terms employed to designate the concentration camps in which we were incarcerated, were also part of the new terminology developed by the United States government and the Army to misrepresent the true nature of their acts.⁸

Naomi finally realizes that her own and her mother's silence, as well as that of Obasan and uncle, who bakes and eats "stone bread," has crippled her. These

people have allowed and accepted their victimization, hoping that silence would make the memories disappear. Uncle says, "This country is the best. There is food. There is medicine. There is pension money. Gratitude. Gratitude" (42). Emily cries, "What a bunch of sheep we were. Polite. Meek. All the way to the slaughterhouse door" (38). It is by speaking and writing about this chapter in history that the demons of blame and otherness are expelled. Kogawa wants to rescue the Japanese Canadians from the fate of Stephen, who has completely assimilated to the dominant culture in flight from his own, and from the alternative response of Obasan and Uncle, who remain hopelessly "foreign" and continue as silent, grateful victims of abuse.

Finally, while Japanese Americans were able to return to their communities at the end of the war, propertyless though they were, Canadians were not allowed to return to the West Coast until 1949 when restrictions were removed on April Fool's Day. This policy effectively destroyed what communities had existed prior to 1941 with the result that the Japanese Canadians tried to lose themselves in the white population and move away from any hint of ethnicity. As Naomi says, "None of my friends today are Japanese Canadians" (38). Rapid assimilation nearly destroyed the culture of people who have now begun to reverse the generation of silence to rediscover the joy of speech. Joy Kogawa's *Obasan* is a beautifully wrought exorcism of the public and private politics of racism.

Notes

¹*Obasan* won the 1981 Books in Canada First Novel Award, The Canadian Author's Association 1982 Book of the Year Award, and an American Book Award from the Before Columbus Foundation in San Francisco.

²*Chatelaine* (June, 1983): 166.

³(Boston: David R. Godine, 1984): 33-34. All further quotations from *Obasan* will be indicated by page number in the text.

⁴*Chatelaine*, 166.

⁵*Chatelaine*, 174.

⁶*Chatelaine*, 170.

⁷(New York: Bantam Books, Inc., 1974), 114.

⁸(Seattle and London: University of Washington Press, 1982), 52.

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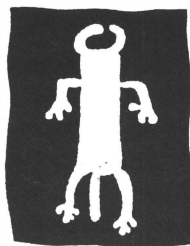
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**Ethnic Disparities in Sentencing
and the
Washington Sentencing Reform Act:
The Case of Yakima County**

**David L. Hood
and
Jon R. Harlan**

Introduction

An important issue confronting the criminal justice system is sentencing disparity. Sentencing disparity involves inequitable sanctions imposed on individuals who have committed similar offenses. These inequalities in sentencing patterns have allegedly centered on group differences and may reflect an ethnic or racial bias.

Numerous studies have explored this issue, sparking considerable controversy. Many of these early works provided findings which supported the view that sentencing bias against nonwhites existed.¹ Neubauer suggests courts in the south strongly discriminated against African Americans—evident from a 70% execution rate of all prisoners since 1930. For cases of rape, 90% of all prisoners executed were black.² Another study argues that sentencing disparity is neither restricted to the south, nor limited to capital punishment cases. In an analysis of Pennsylvania data for 1977, sentencing disparity was observed in urban, suburban, and rural areas after controlling for prior record and using tests of statistical significance and measures of association. Results indicated a greater disparity in suburban areas with a small minority population, but within easy commuting distance from a large African American population.³

Other researchers have focused on non-black minority groups. A study of Hispanics and court processing in El Paso observed that ethnicity had an indirect effect through bail status. Moreover, being Hispanic was the single best predictor of guilty verdicts in El Paso.⁴ Another study focusing on Native Americans discovered that they were more likely to be sent to prison for offenses for which whites received non-prison sanctions. Additionally, when whites were sent to

prison for similar offenses, they were more likely to receive parole than Native Americans.⁵

The racial characteristic of the judge has also been found to impact sentencing disparity.⁶ While no significant differences were found between white and black judges when sentencing black defendants, black judges were more likely to sentence white defendants to prison than were white judges.

Sentencing disparity has been observed in Washington. According to a study conducted by the Institute for Public Policy and Management, University of Washington (1986), during the 1980-82 period blacks were nine times more likely to be imprisoned than whites, Hispanics one and one-half times more likely, and Native Americans three times more likely. The study further indicates that minorities are more likely to be "charged with serious and violent offenses," "more likely to be detained prior to trial," "less likely to plead guilty," and "more likely to be sentenced to prison."⁷

In an effort to reduce sentencing bias, among other goals, states have been moving away from indeterminate sentencing statutes which provide considerable sentencing discretion to determinate sentencing which supplies guidelines, thus constraining discretion formerly enjoyed by judges and parole boards. Washington has joined this movement. It adopted the Sentencing Reform Act (SRA) in 1981, and the statute became effective in July 1984. Two of the stated purposes of the SRA were: (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history, and (2) Be commensurate with the punishment imposed on others committing similar offenses.⁸

To achieve neutrality in sentencing patterns, the SRA provides a sentencing grid with ranges of permissible sanctions (see Appendix for grid). The grid is composed of two variables: Seriousness Level and Offender Score. Seriousness Level focuses on the current conviction and ranges from "I" (least serious, e.g., possession of stolen property) to "XIV" (most serious, e.g., aggravated murder). Offender Score is based on criminal history, including the number of current convictions and prior separate convictions which were concurrently served, and ranges from "0" to "9" (first-time offender to repeat offender). Excluding Seriousness Level XIV, which carries a life sentence without parole or the death penalty regardless of Offender Score, the sentencing grid has 130 active cells.

For every felony conviction, SRA permits two possible sentence lengths dependent upon circumstances. The first is the standard sentence and may include a combination of total confinement (prison), partial confinement (work release), and community service. Under the standard sentence, the combination of these three must equal a total sentence which falls within the prescribed grid range. The second sentencing possibility is the alternative sentence which permits departures from the grid. Alternative sentences involve the First-Time Offender Waiver, Special Sexual Offender Sentencing Alternative, and the Exceptional Sentence. An Exceptional Sentence, which is one that is outside of the grid range, must be justified in writing by the sentencing judge based upon the unique and compelling circumstances included in the case. Of the two possible groups of sanctions, nearly three-quarters (73.6% in fiscal 1987) of all

felony cases state-wide fell under the standard sentence. The First-Time Offender Waiver was used in 18.9% of the 1987 cases and the Exceptional Sentence was rarely used at all—only 3.6%, with the remaining cases included in the “Special Sex Offender” category.⁹ Thus, while alternative sentence options are available, the vast majority of felon offenders are given standard sentences based on the seriousness of the crime and criminal history.

Within the standard sentence, however, opportunities for sentencing disparity exist. SRA permits all or a portion of the sentence of up to one year to be served as partial confinement in a work release program. This, in turn, has an impact on the period of actual jail confinement. Given these condition options which can be imposed, this study seeks to assess the success of the SRA in achieving sentencing neutrality.

The Study

Yakima county was selected as the site for this exploratory study. With a 1980 population of 172,508, it ranks sixth in population in Washington. Moreover, Yakima possesses two large ethnic populations. It has the second largest Native American concentration in the state—6,656, and, with a population of 25,455, it also has the second largest Hispanic settlement. Together these two minority groups constitute slightly under 20% of Yakima’s total population. State-wide these two groups make up only 4.4% of Washington’s population.¹⁰ Aside from the large ethnic concentration, the county is overwhelmingly rural in character and is economically dependent on agriculture.

Raw data used for this study was collected by the Washington Sentencing Guidelines Commission and provided to the authors through the assistance of the Commission’s director—Dr. David L. Fallen. The Commission supplied Yakima county data for fiscal years 1982, and 1986 through 1989. The authors hoped to compare sentencing patterns prior to SRA with patterns after the law took effect. This would have allowed an independent assessment of earlier studies which suggested a disparity problem for the state as a whole with the Yakima experience. The 1982 data set for Yakima county involved, however, a stratified random sample of felony convictions. Thus, only 248 cases were available for processing. After controlling for the effects of seriousness of crime and past criminal history, each cell contained too few cases (fewer than five) to extract statistical significance for any observed relationship. A subsequent run using case weights to reflect the population of adult felony convictions in Yakima county proved equally fruitless in overcoming the problem. Unfortunately, given data limitations the authors are unable to empirically comment on pre-SRA conditions in Yakima. Thus, sentencing disparity may, or may not, have existed.

Although the question of pre-SRA conditions in Yakima cannot be addressed, the post-SRA situation can be explored. The second data set, which covered fiscal years 1986 through 1989, included 4307 useable cases. Of these, 2145 cases fell in the standard sentence category, excluding exceptional downward departures from the SRA range. These cases, controlling for crime level and criminal history, produced fifteen cells for investigation.

Three independent variables and two dependent variables were selected for study. The independent variables included ethnicity (white, Native American, Hispanic), gender (female, male), and age (18-24, 25-30, 31-36, 37 and over). Dependent variables for study were total confinement (prison/jail sentence in months) and partial confinement (authorized work release in months).

Mindful of contemporary research in this area,¹¹ the authors wanted to control for the possible impact of extralegal variables, e.g., socioeconomic status of the defendant. Limitations in the available data prevented such a line of inquiry. The data provided by the Sentencing Guidelines Commission did include, however, the verdict method used to arrive at conviction. As Table 1 indicates, the vast majority of felony convictions for the 1986-89 period were resolved through plea bargaining, without regard to ethnic group, gender or age.

To assess observed deviations in sentencing means for each independent variable, a difference of means test (ANOVA program) was used for each of the fifteen relevant cells. The study involved two ANOVA runs: one for total confinement (actual prison/jail time), and the other for partial confinement (authorized work release). If sentencing neutrality has been achieved under the SRA, one would expect to observe no significant difference between various groups of felons when controlling for seriousness of crime and past criminal history.

Table 1

FREQUENCY OF VERDICT METHOD BY ETHNIC GROUP, GENDER, AND AGE FOR YAKIMA COUNTY, 1986-1989^a

	Bench Trial		Jury Trial		Guilty Plea		Unknown	
	%	(N)	%	(N)	%	(N)	%	(N)
ETHNICITY								
White	1.3	(15)	2.0	(24)	96.6	(1152)	0.2	(02)
Native American	0.0	(00)	0.0	(00)	100.0	(104)	0.0	(00)
Hispanic	2.9	(20)	2.3	(16)	94.2	(652)	0.6	(04)
GENDER								
Female	0.8	(02)	1.1	(03)	97.4	(258)	0.8	(02)
Male	1.8	(33)	2.2	(40)	95.6	(1732)	0.3	(06)
AGE								
18-24	1.6	(11)	1.6	(11)	96.2	(652)	0.6	(04)
25-30	2.4	(18)	1.5	(11)	95.8	(704)	0.3	(02)
31-36	1.4	(05)	3.3	(12)	95.0	(341)	0.3	(01)
37 or over	0.7	(02)	3.0	(09)	96.0	(285)	0.3	(01)

^aPercentages may not sum to 100% due to rounding-off error.

Findings

Of the fifteen cells investigated, only four indicated that the difference of means for total confinement was significant for at least one of the three independent variables. The results can be found in Table 2. For each of the four relevant cells, major differences in total confinement are observed along ethnic lines, gender was important to one cell, and age of felon proved insignificant. Hispanic defendants in three of the four cells received periods of total incarceration nearly twice as long on average than their white counterparts.

Table 2
DIFFERENCE OF MEANS TEST INVOLVING TOTAL CONFINEMENT
TIME ORDERED FOR ETHNIC, GENDER, AND AGE RELEVANT CELLS^a

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance Level
I,0	ETHNICITY				
	White	.493	171	.523	
	Native American	.575	13	.806	
	Hispanic	.806	51	.454	
					.006
	GENDER				
	Female	.357	72	.379	
	Male	.644	169	.542	
					.002
	AGE				
18-24	.611	91	.499		
25-30	.518	81	.514		
31-36	.642	38	.616		
37 or over	.459	33	.431		
				****d	
II,1	ETHNICITY				
	White	2.095	78	1.587	
	Native American	1.464	07	1.247	
	Hispanic	2.726	55	1.520	
					.045
	GENDER				
	Female	1.648	19	1.422	
	Male	2.311	134	1.528	

	AGE				
18-24	2.116	57	1.371		
25-30	2.485	59	1.770		
31-36	1.650	21	1.360		
37 or over	2.652	17	1.366		

(Table 2 continued next page)

Table 2 (Continued from previous page)

DIFFERENCE OF MEANS TEST INVOLVING TOTAL CONFINEMENT TIME ORDERED FOR ETHNIC, GENDER, AND AGE RELEVANT CELLS^a

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance Level	
II,4	ETHNICITY					
	White	12.969	18	3.291		
	Hispanic	9.801	09	4.716		
					.044	
	GENDER ^c					
	AGE					
	18-24	10.358	12	4.146		
	25-30	13.439	12	4.002		

VI,0	ETHNICITY					
	White	7.501	33	6.140		
	Hispanic	12.001	56	2.379		
					.000	
	GENDER					
	Female	10.731	07	4.316		
	Male	10.513	86	5.816		

	AGE					
		18-24	11.647	31	2.697	
		25-30	11.087	22	8.442	
		31-36	10.353	21	4.718	
	37 or over	7.698	17	6.285		

^aRelevant cells included only those in which one of the independent variables was significant. Values for variables with less than five cases per cell were ignored.

^bCells were defined by seriousness of current offense, "I" through "XIV," and by offender score based on criminal history, "0" through "9." The designation "I,0" refers to least serious crime level with no prior criminal history.

^cSentence mean given in months.

^dA probability level of .05 or less was used as the level of significance. The designation of "****" indicates the differences of means is not significant.

^eDue to a limited number of "female" cases, the variable "gender" was removed from the analysis.

Results for Native Americans are mixed. As there were fewer Native American cases available for analysis, they were included in two of the four cells. In one cell Native Americans received slightly more imprisonment time than whites, the other slightly less. Compared with Hispanics, however, Native Americans in each cell on average received total confinement sentences which were less.

While ethnic differences in total confinement are observed in each of the relevant cells, the variation may be due to the intervening effects of the other two independent variables. That is, Hispanics may receive longer total confinement sentences because they tend to be younger, or perhaps more likely to be male. In one of the cells (I,0), gender was a significant indicator of sentencing. To test this possibility, multiple classification analysis was applied to the relevant cells for significant independent variables. Given two or more interrelated factors, this procedure explores the net effect of each variable when the differences in the other factors are controlled. In other words, it investigates the unique contribution ethnic heritage has on total confinement independent of age and gender. Table 3 contains the results of the multiple classification analysis for total confinement.

Table 3

MULTIPLE CLASSIFICATION ANALYSIS OF RELEVANT INDEPENDENT VARIABLES FOR TOTAL CONFINEMENT TIME ORDERED^a

Cell ^b	Grand Mean ^c	Variable	N	Adjusted Independent Effect ^d
I,0	.56	ETHNICITY		
		White	169	-.06
		Native American	13	.05
		Hispanic	51	.20
		GENDER		
		Female	67	-.16
Male	166	.07		
II,1	2.29	ETHNICITY		
		White	77	-.22
		Native American	07	-.75
		Hispanic	53	.41
II,4	11.91	ETHNICITY ^e		
		White	18	1.14
		Hispanic	09	-2.28
VI,0	10.27	ETHNICITY ^e		
		White	33	-2.50
		Hispanic	54	1.53

^aOnly those independent variables from Table 2 which had significance levels of .05 or less were included.

^bCells were defined by seriousness of current offense, "I" through "XIV," and by offender score based on criminal history, "0" through "9."

^cThe grand mean is expressed in months; thus, ".56" is equal to about seventeen days.

^dThe adjusted independent effect provides the actual impact of each value controlling for the impact of the other independent variables; thus, it controls for the possible interrelationship of “ethnicity,” “gender,” and “age.”

^eDue to a limited number of “Native American” cases in these cells, the value was removed from the analysis.

The adjusted effects for significant independent variables in Table 3 confirm the results observed in Table 2. In the first cell, all defendants serve an average of .56 months (approximately seventeen days) in total confinement for committing a Level I crime with no previous criminal history. Whites receive a total confinement sentence, however, which is .06 months (two days) less than their Native American and Hispanic counterparts. Hispanics serve six days more than the average total confinement, or eight days more than whites. Among these two groups, Hispanics receive longer total confinement periods than whites in all but one cell. It must be remembered that this situation occurs for defendants guilty of the same seriousness level crime and similar criminal records controlling for gender and age effects.

The second difference of means test explored possible sentencing disparity in partial confinement—that part of the standard sentence which was authorized to be served in a work release program separate of total confinement. The results are found in Table 4. Of the fifteen cells, four had significant differences for one of the three independent variables (two of these four cells were not significant in the total confinement analysis). In three of these relevant cells ethnicity of defendant was an important indicator of work release time, age was significant in one, and gender proved unimportant. In the first two relevant cells, whites received nearly three times the work release as Hispanics. Only in cell II,4 is the pattern reversed. Once again, the results for Native Americans are mixed with twenty-two defendants receiving no partial confinement in cell II,0, while seven receiving a month of work release time in cell II,1.

Table 4

DIFFERENCE OF MEANS TEST INVOLVING AUTHORIZED WORK-RELEASE TIME FOR ETHNIC, GENDER, AND AGE RELEVANT CELLS^a

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance Level
II,0	ETHNICITY				
	White	.128	232	.351	.000
	Native American	.000	22	.000	
	Hispanic	.032	274	.212	
	GENDER				
	Female	.049	67	.165	****d
Male	.094	485	.565		

Table 4 (Continued from previous page)

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance Level
	AGE				
	18-24	.117	186	.821	
	25-30	.081	205	.297	
	31-36	.060	83	.251	
	37 or over	.078	75	.333	

II,1	ETHNICITY				
	White	.832	78	1.315	
	Native American	1.001	07	1.335	
	Hispanic	.313	55	.976	
					.020
	GENDER				
	Female	.553	19	1.085	
	Male	.687	134	1.246	

	AGE				
	18-24	.714	57	1.212	
	25-30	.649	59	1.267	
	31-36	.787	21	1.356	
	37 or over	.412	17	.958	

II,4	ETHNICITY				
	White	.000	18	.000	
	Hispanic	1.998	09	3.994	
					.023
	GENDER ^e				
	AGE				
	18-24	.580	12	2.259	
	25-30	1.498	12	3.524	

IV,1	ETHNICITY				
	White	.759	19	1.842	
	Hispanic	.721	11	1.604	

	GENDER ^e				
	AGE				
	25-30	.000	16	.000	
	31-36	1.133	07	1.935	
					.005

^aRelevant cells included only those in which one of the independent variables was significant. Values for variables with fewer than five cases per cell were ignored.

^bCells were defined by seriousness of current offense, “I” through “XIV,” and by offender score based on criminal history, “0” through “9.” The designation “I,0” refers to least serious crime level with no prior criminal history.

^cSentence mean given in months.

^dA probability level of .05 or less was used as the level of significance. The designation of “*****” indicates the differences of means is not significant.

^eDue to a limited number of “female” cases, the variable “gender” was removed from the analysis.

To assess the unique effect of each significant variable, the multiple classification analysis procedure was repeated for partial confinement. The results appear in Table 5. Table 5 lends support for the patterns observed in Table 4—namely, Hispanics are less likely than whites and Native Americans to receive partial confinement, controlling for the possible interrelationship of the independent variables.

Conclusions

Earlier studies of the pre-SRA period suggest that sentencing disparity was a problem in Washington. As the number of available cases for Yakima county in 1982 was limited, this assertion proved untestable. Concerning the post-SRA period (1986-89), findings of this study suggest that the reform has been moderately successful in Yakima county. The data does not reflect widespread disparity. Of the fifteen SRA cells investigated, only four in the case of total confinement and three in the case of partial confinement indicated a significant difference among ethnic groups. While sentencing disparity may not be widespread in Yakima county, it does persist. Hispanic defendants are more likely, within the ranges established by law, to receive sentences which are more severe than whites or Native Americans; i.e., longer periods of total confinement. This situation existed after controlling for seriousness of crime and criminal history. The stated purpose of the SRA is to reduce the impact “of extra-legal factors such as local politics and attitudes, age, gender, race, pretrial incarceration, employment, education, or variation in judicial leniency. . . .”¹² In this endeavor Hispanics in Yakima county have yet to fully benefit from stated goals of the SRA.

Native Americans were not as harshly impacted as Hispanics. While Native Americans received significantly more severe sentences in two cells, no overall sentencing disparity pattern is observed. And, contrary to other studies,¹³ the data indicate gender and age of defendant have no major impact on sentencing in Yakima county.

The focus of this study has been on the effects of legislation designed to promote sentencing neutrality after court processing, i.e., after the question of guilt has been determined. More subtle forms of institutional bias may still exist within the justice system.¹⁴ These may involve the use of discretionary authority by the police to arrest one suspect and not another and at the prosecutorial level when the charge is selected. Thus, the forms of biases in sentencing may be changing.

Table 5

MULTIPLE CLASSIFICATION ANALYSIS OF RELEVANT INDEPENDENT VARIABLES FOR WORK-RELEASE TIME^a

Cell ^b	Grand Mean ^c	Variable	N	Adjusted Independent Effect ^d
II,0	.07	ETHNICITY		
		White	230	.06
		Native American	21	-.07
		Hispanic	269	-.05
II,1	.65	ETHNICITY		
		White	77	.21
		Native American	07	.56
		Hispanic	53	-.38
II,4	.67	ETHNICITY ^e		
		White	18	-.77
		Hispanic	09	1.54
IV,1	.77	AGE ^f		
		25-30	16	-.83
		31-36	07	.58

^aOnly those independent variables from Table 4 which had significance levels of .05 or less were included.

^bCells were defined by seriousness of current offense, "I" through "XIV," and by offender score base on criminal history, "0" through "9."

^cThe grand mean is expressed in months; thus, ".07" is equal to about two days.

^dThe adjusted independent effect provides the actual impact of each value controlling for the impact of the other independent variables; thus, it controls for the possible interrelationship of "ethnicity," "gender," and "age."

^eDue to a limited number of "Native American" cases in this cell, the value was removed from the analysis.

^fDue to a limited number of cases, age groups "18-24" and "37 or older" were excluded from the analysis.

Notes

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- ⁷Institute for Public Policy and Management, *Racial and Ethnic Disparities in Imprisonment* (Seattle: University of Washington, 1986), ii.
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- ⁹David L. Fallen, *Sentencing Practices Under the Sentencing Reform Act* (Olympia: Sentencing Guidelines Commission, 1987), 31.
- ¹⁰Office of Financial Management, *1988 Population Trends for Washington State* (Olympia: Forecasting Division, 1988), Table 11, p. 52.
- ¹¹C. Spohn, J. Gruhl, and S. Welch, "The Effect of Race on Sentencing: A Re-examination of an Unsettled Question," *Law and Society Review* 16(1981-82): 178-185; see also, D. B. Griswold, "Deviation From Sentencing Guidelines: The Issue of Unwarranted Disparity," *Journal of Criminal Justice* 15(1987): 317-329.
- ¹²Fallen, 6.
- ¹³C. Spohn, S. Welch, and J. Gruhl, "Women Defendants in Court: The Interaction Between Sex and Race in Convicting and Sentencing," *Social Science Quarterly* 66 (1985): 178-185.
- ¹⁴Marjorie Zatz, "The Changing Forms of Racial/Ethnic Biases in Sentencing," *Journal of Research in Crime and Delinquency* 24(1987): 69-92.

APPENDIX

WASHINGTON SENTENCING GRID^a

Seriousness Level	Offender Score ^b									
	0	1	2	3	4	5	6	7	8	9 ^c
XIV	Life Sentence Without Parole/Death Penalty									
XIII	240-320	250-333	261-347	271-361	281-374	291-388	312-416	338-450	370-493	411-548
XII	123-164	134-178	144-192	154-205	165-219	175-233	195-260	216-288	257-342	298-397
XI	62-82	69-92	77-102	85-113	93-123	100-135	129-171	139-185	159-212	180-240
X	51-68	57-75	62-82	67-89	72-96	77-102	98-130	108-144	129-171	149-198
IX	31-41	36-48	41-54	46-61	51-68	57-75	77-102	87-116	108-144	129-171
VIII	21-27	26-34	31-41	36-48	41-54	46-61	67-89	77-102	87-116	108-144
VII	15-20	21-27	26-34	31-41	36-48	41-54	57-75	67-89	77-102	87-116
VI	12-14	15-20	21-27	26-34	31-41	36-48	46-61	57-75	67-89	77-102
V	6-12	12-14	13-17	15-20	22-29	33-43	41-54	51-68	62-82	72-96
IV	3-9	6-12	12-14	13-17	15-20	22-29	35-43	43-57	53-70	63-84
III	1-3	3-8	4-12	9-12	12-16	17-22	22-29	33-43	43-57	51-68
II	0-3	2-6	3-9	4-12	12-14	14-18	17-22	22-29	33-43	43-57
I	0-2	0-3	2-5	2-6	3-8	4-12	12-14	14-18	17-22	22-29

^aSource: David L. Fallen, *Sentencing Practices Under the Sentencing Reform Act* (Olympia: Sentencing Guidelines Commission, 1987), 85.

^bAll indicated ranges are given in months.

^cColumn indicates an offender score of 9 or more.

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The Law and Policy of Civil Rights: A Tactical Perspective for Educators

**Le Von E. Wilson
and
George Steven Swan**

I have a dream my four little children will one day live in a nation where they will not be judged by the color of their skin but by content of their character. I have a dream today!¹

—Dr. Martin Luther King, Jr.

[T]he problem of the Twentieth Century is the problem of the colorline.²

—Dr. W. E. B. DuBois

Introduction

This article is presented to share with fellow professional teacher-scholars the preparation of a freshly-formulated teaching project. The aim of this project is to provide a classroom public policy study program wherein students debate policy issues in a carefully structured and professional fashion. This structure encompasses hands-on study of actually-litigated minority set-aside/affirmative action controversies before the U.S. Supreme Court, with every student always utilizing the primary documents (the litigants' briefs) used by the Supreme Court Justices themselves. These briefs provide readymade resources fueling policy debate on either side of each case.

The Sequence of Judicial Opinions

Because a chronological sequence of cases is studied, students are sensitized to the delicate and dynamic interplay of each precedent upon subsequent decisions. They likewise are alerted to the delicate and dynamic

interplay of Justice upon Justice, opinions and dissents being, of course, personally ascribed. This reminds students that *public* policy is a matter of *personal* responsibility. The students are similarly alerted to the delicate and dynamic interplay of various legal authorities, i.e., the equal protection component of the Due Process Clause of the Fifth Amendment,³ the Due Process Clause of the Fourteenth Amendment,⁴ the Equal Protection Clause of the Fourteenth Amendment,⁵ Title VII of the Civil Rights Act of 1964,⁶ Executive Order 11246 of 1965,⁷ and the Taxing and Spending Clause of Article I⁸. This teaches students as apprentice scholars and citizens that there is no “one” minority set-aside/affirmative action law, but numerous “laws.”

Students may be alternately assigned to the pro- or anti-affirmative action position. Or the professor may choose to require each student prepare herself simultaneously to debate for either side or demand, as is done with students learning debating. Still again, the professor may allow students to form self-selected “law firms” to advocate their own chosen policy. Yet again, the professor may vary any of these approaches from week to week as study of new cases is embraced. Student input can be solicited on this classroom “policy” point.

The chain of Supreme Court cases, virtually all of which are productive of opinions defining the law in recent years and hence of practical value to students of policy, includes these:

1. The Supreme Court’s opinion for five of the eight Justices participating in *Hughes v. Superior Court of California in and for Contra Costa*⁹ (1950), written by Justice Felix Frankfurter, is an invaluable background to modern-day minority set-aside/affirmative action litigation. The Supreme Court accepted review of that case to weigh claims of infringement of the right to the freedom of speech guaranteed by the Due Process Clause of the Fourteenth Amendment.¹⁰ The broad question therein was whether the Fourteenth Amendment bars a state (California) from exploiting the injunction to prohibit picketing a place of business solely to attain compliance with the demand there be employees hired to approach a racial balance proportional to the racial origin of the business’s customers.¹¹

The Progressive Citizens of America had demanded that a California grocery store hire African Americans as white clerks quit or were transferred until the ratio of African American clerks to white clerks approximated the ratio of African American customers to white customers. About half of the customers of the store were African American. Upon refusal of this demand, and to compel compliance therewith, the store was systematically patrolled by pickets bearing placards proclaiming the employer’s refusal to hire African American clerks in proportion to its African American customers.¹³

The Supreme Court’s opinion styled this “picketing to promote discrimination”¹⁴ and warned: “We cannot construe the due process clause as precluding California from securing respect for its policy against involuntary employment on racial lines by prohibiting systematic picketing that would subvert such policy.”¹⁵ Frankfurter’s words of 1950 remain timely for the mid-1990s:

To deny to California the right to ban picketing in the circumstances of this case would mean that there could be

no prohibition of the pressure of picketing to secure proportional employment on ancestral grounds of Hungarians in Cleveland, of Poles in Buffalo, of Germans in Milwaukee, of Portuguese in New Bedford, of Mexicans in San Antonio, of the numerous minority groups in New York, and so on through the whole gamut of racial and religious concentrations in various cities. States may well believe that such constitutional sheltering would inevitably encourage use of picketing to compel employment on the basis of racial discrimination. In disallowing such picketing States may act under the belief that otherwise community tensions and conflicts would be exacerbated. The differences in cultural traditions instead of adding flavor and variety to our common citizenry might well be hardened into hostilities by leave of law. The Constitution does not demand that the element of communication in picketing prevail over the mischief furthered by its use in these situations.¹⁶

The Supreme Court decided that a state may choose to enjoin picketing to win submission to a demand for employment proportional to the racial origin of business customers because of the compulsory features inherent in picketing (beyond the element of mere communication as an appeal to reason.)¹⁷ Yet it added that an employer of that time need not be forbidden to erect such a quota system of its own free will.¹⁸

The *Hughes* opinion invites further minority set-aside/affirmative action debate through its final lines:

The injunction here was drawn to meet what California deemed the evil of picketing to bring about proportional hiring. We do not go beyond the circumstances of the case. Generalizations are treacherous in the application of large constitutional concepts.¹⁹

Justices Hugo Black and Sherman Minton concurred in the Supreme Court's judgment.²⁰ And Justice Stanley F. Reed concurred independently and concisely: "I read the opinion of the Supreme Court of California to hold that the pickets sought from Lucky Stores, Inc., discrimination in favor of persons of the Negro race, a discrimination unlawful under California law. Such picketing may be barred by a state."²¹

2. In *Regents of the University of California v. Bakke*²² (1978), the Supreme Court divided 4-4-1. The "bottom line" thereof, read by combining then-Justice Lewis F. Powell, Jr.'s lone swing vote with the reasoning of a bloc of four other Justices, is that under the Equal Protection Clause of the Fourteenth Amendment state universities need not be colorblind in admissions policies. Note how the 4-4-1 split invites student debate.

3. In *United Steelworkers of America v. Weber*²³ (1979), the Supreme Court upheld against Title VII challenge a private affirmative action plan negotiated between an employer and a union. The Justices voted 5-2 (not 5-4) that this plan actually fought, not itself constituted, racial discrimination.

4. In *Fullilove v. Klutznick*²⁴ (1980), a 6-3 decision, the Supreme Court upheld under the Fifth Amendment a federal public works program that set aside 10 percent of funds for minority business enterprises (MBEs).

5. In *Wygant v. Jackson Board of Education*²⁵ (1986), a school district layoff (not hiring) plan dispute, the Court indicated a distinction between the permissibility of affirmative action in layoffs and in hiring.

6. *Local Number 28, Sheet Metal Workers International Association v. Equal Opportunity Commission*²⁶ (1986), was a mere plurality opinion. Observe again how this invites student debate. Therein the Justices upheld a numerical quota for union membership that had been court-ordered rather than voluntarily adopted.

7. *Local Number 93, International Association of Firefighters v. Cleveland*²⁷ (1986), found inapplicable to voluntary affirmative action measures the remedial limitations imposed by Title VII.

8. In *United States v. Paradise*²⁸ (1987), a plurality, but only a plurality, of the Justices upheld a 50 percent black promotion requirement by a lower court against the Alabama State Police.

9. In *Johnson v. Transportation Agency*²⁹ (1987), just six Justices upheld a voluntary affirmative action plan to increase the number of women in jobs where they traditionally had been underrepresented.

10. In *Richmond v. J. A. Croson Co.*³⁰ (1989), a 6-3 majority of the Supreme Court held, per Justice Sandra Day O'Connor, that a Richmond, Virginia, ordinance requiring all city construction project primary contractors subcontract at least 30 percent of the dollar value thereof to minority-owned enterprises violated the Equal Protection Clause. This decision opened the prospect that numerous state and local minority-contractor programs will be struck down as unconstitutional. But, enhancing classroom policy debate, Justice Thurgood Marshall predicted *Croson* will thwart elimination of the vestiges of past discrimination.

11. In *Martin v. Wilks*³¹ (1989), the Supreme Court held that white firefighters in Birmingham, Alabama, had the right to challenge a court-approved consent decree to which they were not parties. These white plaintiffs could not be denied a chance to prove that the decree had resulted in an illegal, race-based preference for black employees. *Wilks* may cause employers to reevaluate their affirmative action plans.

12. In *Metro Broadcasting, Inc. v. Federal Communications Commission*³² (1990), the Supreme Court decided Metro's suit against the FCC's policy of favoring women and minority applicants for broadcast licenses. This opinion held in favor of the Federal Communications Commission policy.

That defining lawful public policy encompasses personal responsibility is highlighted by students' study of the opinions with an eye to the individual Justices. For example, Justice Harry A. Blackmun, appointed by President Richard M. Nixon in 1970, was born on November 12, 1908. Justice Thurgood Marshall, named to the Supreme Court by President Lyndon B. Johnson during 1967, was born on July 2, 1908. Former Justice William J. Brennan, appointed by President Dwight D. Eisenhower in 1956, was born on April 25, 1906.³³ On

July 20, 1990, Brennan announced his retirement.³⁴ These birthdates have suggested that the tides of Supreme Court policymaking are vulnerable to an imminent turning. (Justice David H. Souter, an appointee of President George Bush, when on October 8, 1990, he joined the Supreme Court³⁵ was only 53 years of age.)

The Supplementary Authorities

Each Supreme Court opinion followed the filing of written briefs by (at a minimum) the two appellant and appellee parties, as well as (in numerous cases) *amicus curiae* briefs filed by third parties. These documents are on the public record with the Supreme Court. Copies of each readily can be obtained in a matter of days via orders placed through such research-resource offices as Federal Document Retrieval (810 First St., N.E., Suite 600, Washington, DC 20002, 202/789-2233). The fee is approximately \$15.00 standard fee per order, plus \$.30 per page, plus tax. Such research costs are high per copy page; but they otherwise are quite low, once it is recalled that exactly what documents are needed is known in advance. This is not a “fishing expedition” research effort, examining documents only some of which may prove of any value.

The courtroom oral arguments in such cases essentially offer the real-world “debate” on the legal issues.³⁶ Written transcripts of each case argued between October 1, 1981 and September 30, 1987, and from October 1, 1988 to date are available from Alderson Reporting Co. (1111 14th Street, N.W., Washington, DC 20005, 202/289-2261). Oral arguments run about 50 pages per case, costing \$2.85 per page, plus a \$10.00 shipping and handling charge.

Transcripts of oral arguments, like copies of briefs and the consequent judicial opinions themselves, can be edited by the professors to extract for student readers only the relevant minority set-aside/affirmative action issues. Student analytical skills especially will be finely honed when they critically can compare: (a) the topics (and approaches thereto) emphasized in each original written brief to the subsequent handling of the same topics at oral argument; and (b) the matters emphasized at oral argument to the disposition of the controversy in the subsequent judicial opinion.

Educators may recognize that the Wilson-Swan educational project bears some resemblance to the recently-proposed undergraduate composition program of the University of Texas English Department. Therein, as planned, classes numbering approximately twenty-five students each would follow a syllabus and reading list including Paula S. Rothenberg's *Racism and Sexism: An Integrated Approach*,³⁷ an introductory-level sociology text, and several Supreme Court opinions addressing civil rights, affirmative action, and the rights of the disabled.³⁸ These opinions include *Sweatt v. Painter*³⁹ (1950) and *Brown v. Board of Education*⁴⁰ (1954). According to Associate Professor Linda Broadkey, the nine-member teacher committee which formulated this new program attempted to select opinions wherein the Supreme Court was torn sharply between the powerful arguments of either side, in order that Texas students learn that the law can be interpreted in various fashions.⁴¹ Adoption thereof is looked for in 1991.⁴²

Supreme Court opinions, litigation briefs, and additional editorial material readily constitute a custombuilt casebook for this course of study. Ginn Press, of Simon and Schuster (160 Gould St., Needham Heights, MA 02194-2310, 617/455-7000 or 800/428-GINN) can work with a manuscript on any size disk, from any operating system. Ginn obtains all permissions for copyrighted material (e.g., editorials or essays on affirmative action). Publishing texts for courses, as here, which have enrollments of 200 or more students annually, Ginn can nationally market texts.

The previously cited authorities are strictly legal sources. History, sociology, and (most especially) economics-oriented supplemental policy treatise resources include Thomas Sowell, *Race and Economics*⁴³ (1975), *Ethnic America*⁴⁴ (1981), *Essays and Data on American Ethnic Groups*⁴⁵ (1978), *Markets and Minorities*⁴⁶ (1981), *Civil Rights: Rhetoric or Reality?*⁴⁷ (1984), *Compassion Versus Guilt, and Other Essays*,⁴⁸ (1987), *Affirmative Action Reconsidered*⁴⁹ (1975), and *Preferential Policies: An International Perspective*⁵⁰ (1990); Robert E. Klitgaard, *Choosing Elites*⁵¹ (1985); Walter E. Williams, *The State Against Blacks*⁵² (1982), and *South Africa's War on Capitalism*⁵³ (1989); William H. Hutt, *The Economics of the Colour Bar: A Case Study of the Economics, Origins and Consequences of Racial Segregation in South Africa*⁵⁴ (1964); Gary S. Becker, *The Economics of Discrimination*⁵⁵ (1971); Richard A. Posner, *Economic Analysis of Law*⁵⁶ (1976), and *The Economics of Justice*⁵⁷ (1981); James V. Koch, *The Economics of Affirmative Action*⁵⁸ (1976); Alvin Rabushka, *A Theory of Racial Harmony*⁵⁹ (1974); Walter E. Block and M. A. Walker, *Discrimination, Affirmative Action, and Equal Opportunity*⁶⁰ (1982); Edward C. Banfield, *Unheavenly City Revisited*⁶¹ (1974); Milton Friedman, *Capitalism and Freedom*⁶² (1968), chapter seven "Capitalism and Discrimination,"⁶³ and Milton Friedman and Rose Friedman, *Free to Choose*⁶⁴ (1980), chapter five "Created Equal";⁶⁵ Merle Lipton, *Capitalism and Apartheid: South Africa, 1910-84*⁶⁶ (1985); William Julius Wilson, *The Truly Disadvantaged*⁶⁷ (1987); Shelby Steele, *The Content of Our Character: A New Vision of Race in America*⁶⁸ (1990); Richard Swedberg, *Economics and Sociology: Redefining Their Boundaries*⁶⁹ (1990); Clint Bolick, *Changing Course: Civil Rights at the Crossroads*⁷⁰ (1988), and *Unfinished Business: A Civil Rights Strategy for America's Third Century*⁷¹ (1990); Cynthia B. Lloyd and Beth T. Niemi, *The Economics of Sex Differentials*⁷² (1979); and Claudia Goldin's *Understanding the Gender Gap: An Economic History of American Women*⁷³ (1990). Since public policy is made especially at the intersection of economics and law, students should be equipped to draw upon analysis from both professional fields.

The Gathering Race Norming Issue

This approach focuses on minority set aside/affirmative action cases. The logic of such precedents contributes to constructive debate on the mounting controversy concerning the comparable practice of race norming (or "within-group scoring"). Thereunder, examinee-competitors (e.g., for jobs) are ranked

only in relation to other examinees of the same race.⁷⁴ Stanford University Professor of Law Mark Kelman points out that race norming ensures that an identical proportion from each normed group is selected at an initial screening stage.⁷⁵ And federal equal employment opportunity policy makes employers legally vulnerable should their selection processes carry an adverse impact upon women or racial minorities.⁷⁶

For example, a federally-sanctioned job referral test utilized by the Virginia Employment Commission (as well as by employment agencies nationwide) to help fill thousands of public and private employment slots includes a percentile conversion chart. The system thereby awards substantial bonus points to (or imposes heavy subtractions from) a jobseeker's final score. The goal is to compensate for the lower mean scores on standardized tests of certain racial minorities.⁷⁷ Hispanics are ranked only against Hispanics; blacks are ranked only against blacks; and all other applicants are ranked against one another.⁷⁸

Were a black, an Hispanic, a white and an Asian to take the Validity Generalization version of the General Aptitude Test Battery toward an accountant's post, and each to score 300, the black would be ranked at the 87th percentile, the Hispanic at the 74th, and the white and the Asian both at the 47th.⁷⁹ Examinations tend to render false negatives of marginal scorers nevertheless capable of adequate job performance. Because some groups have more low scorers than do other groups, they also suffer more false negatives than do those others. This disproportionate impact of selection error is cited for adjustment of minority scores.⁸⁰

Conclusion

The preceding discussion has shared the preparation of the carefully structured Wilson-Swan public policy study project. Students equipped with all relevant Supreme Court briefs, transcripts of numerous recent oral arguments, and judicial opinions themselves can analyze these legal sources from a dispassionate economic perspective. Until equal rights proponents can highly accurately diagnose a malady, we cannot with a great deal of confidence prescribe the proper medicine.⁸¹ The debate element of this classroom undertaking adds a special zest to this study program for involved students.

Focus upon an up-to-date public policy issue of immediate practical import enhances the value of the Wilson-Swan academic project. This discussion remains current through the October 22, 1990 veto by President Bush of the proposed Civil Rights Act of 1990,⁸² a veto sustained in Congress on October 24, 1990.⁸³ That veto leaves intact the authorities studied herein. Further development of study endeavors along similar lines must prove most timely.⁸⁴

Notes

¹*A Testament of Hope: The Essential Writings of Martin Luther King, Jr.*, James Melvin Washington, ed. (San Francisco: Harper and Row, 1986), 219. It was on the August 1963 date of this “I Have a Dream” speech by King for the March on Washington that Roy Wilkins announced to the marchers that Dr. Du Bois had died in Ghana that very morning. Taylor Branch, *Parting the Waters: America in the King Years 1954-63* (New York: Simon and Schuster, 1988), 878.

²W. E. B. Du Bois, *The Souls of Black Folk* (Chicago: McClurg & Co., 1983), vii.

³U.S. Const. amend. V; *Bolling v. Sharpe*, 347 U.S. 497 (1954).

⁴U.S. Const. amend. XIV, sec. 1, cl 1.

⁵U.S. Const. amend. XIV, sec. 1, cl. 1.

⁶42 U.S.C. sec. 2000 et seq.

⁷2 C.F.R. sec. 339.

⁸U.S. Const. art. I, sec. 8.

⁹339 U.S. 460 (1950).

¹⁰*Id.* at 462.

¹¹*Id.* at 461.

¹²*Id.*

¹³*Id.*

¹⁴*Id.* at 466.

¹⁵*Id.*

¹⁶*Id.* at 464.

¹⁷*Id.* at 468.

¹⁸*Id.*

¹⁹*Id.* at 469.

²⁰*Id.* (Black, J. and Minton, J., concurring in the judgment).

²¹*Id.* (Reed, J., concurring).

²²438 U.S. 265, 311-13 (1978) (Powell, J.).

²³443 U.S. 193 (1979).

²⁴448 U.S. 448 (1980).

²⁵106 S. Ct. 1942 (1986).

- ²⁶105 S. Ct. 3019 (1986).
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- ³³George Steven Swan, "The November Election and the Supreme Court," *Human Events*, 1 September 1984: 12.
- ³⁴Steven Greenhouse, "Brennan, Key Liberal, Quits Supreme Court; Battle for Seat Likely," *N.Y. Times*, 21 July 1990: 1, col. 6.
- ³⁵Neil A. Lewis, "Sworn In as 105th Justice, Souter Says Shock Recedes," *New York Times*, 21 July 1990: 1.
- ³⁶Transcripts of Supreme Court proceedings often make fascinating reading, and we lead with this thought not only to mollify the business department, which shelled out over \$300 so we could fascinate ourselves. Daniel Seligman, "Keeping Up," *Fortune* 121 (7 May 1990): 183, 184 (oral argument transcript of *Metro Broadcasting, Inc. v. Federal Communications Commission*, 110 S. Ct. 2997 (1990)).
- ³⁷Paula S. Rothenberg, *Racism and Sexism: An Integrated Approach* (New York: St. Martin's Press, 1987).
- ³⁸"A Civil Rights Theme For a Writing Course," *N.Y. Times*, 24 June 1990: 32, col. 2.
- ³⁹339 U.S. 629 (1950).
- ⁴⁰347 U.S. 483 (1954).
- ⁴¹"A Civil Rights Theme For a Writing Course," 32, cols. 1-2.
- ⁴²"Texas Puts Off Adopting Controversial Course," *Chronicle of Higher Education*, 8 August 1990: A2, col. 5.
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- ⁴⁴Thomas Sowell, *Ethnic America* (New York: Basic Books, 1981).
- ⁴⁵Thomas Sowell, ed. *Essays and Data on American Ethnic Groups*, (Washington: Urban Institute, 1978).
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⁶³Friedman, *Capitalism and Freedom*, 108-18.

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- ⁷³Claudia Goldin, *Understanding the Gender Gap: An Economic History of American Women* (New York: Oxford University Press, 1990). Claudia Golden is "the first tenured economics professor at Harvard." Jaclyn Fierman, "Why Women Still Don't Hit The Top," *Fortune* 122 (30 July 1990): 40,58.
- ⁷⁴Jan H. Blits and Linda S. Gottfredson, "Equality or Lasting Inequality?" *Society* 27 (March/April 1990): 4.
- ⁷⁵Mark Kelman, "The Problem of False Negatives," *Society* 27 (March/April 1990): 21, 23.
- ⁷⁶Alexandra K. Wigdor and John A. Hartigan, "The Case for Fairness," *Society* 27 (March/April 1990): 12, 13.
- ⁷⁷Robert G. Holland, "Racially Rigged Job Test Scores," *Washington Times*, 7 June 1990: F1, col. 1.
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- ⁷⁹Robert G. Holland, "Big Brother's Test Scores," *National Review* 42 (3 September 1990): 35.
- ⁸⁰Holland, "Big Brother's Test Scores," 36.
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⁸⁴The Wilson-Swan program transcends such non-comprehensive reference authority as *Landmark Briefs and Arguments of the Supreme Court of the United States*, Philip B. Kurland and Gerhard Casper eds. (Washington: University Publications of America). That source excludes judicial opinions, but includes briefs and arguments in *Bakke* (vols. 99-100, 1978), *Weber* (vol. 112, 1980), *Wygant* (vol. 166, 1987), and *Croson* (vol. 187, 1990).

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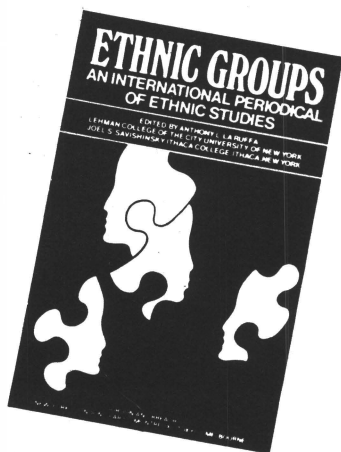


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Newsletter Article	³ James H. Williams, "Ethnicity and Human Rights: Raising the National Consciousness," <i>NAIES Newsletter</i> 5 (October, 1980): 19.
Newspaper Article	⁴ "Robert Moses, Master Builder, Is Dead at 92," <i>New York Times</i> , 30 July 1981, Midwest edition.
Article in a Book	⁵ Lawrence Kohlberg, "Stage and Sequence: The Cognitive-Developmental Approach to Socialization," in <i>Hand-book of Socialization</i> , ed. D. Goslin (New York: Rand McNally, 1969), 347-580.
Thesis/Dissertation	⁶ Michael G. Karni, "Yhteishyry'-or For the Common Good: Finnish Radicalism in the Western Great Lakes Region 1900-1940 (Ph.D. diss., University of Minnesota, 1975), 115-95.
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