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THE QING AND THE FIRST OPIUM WAR

NOAH SCHERF

The First Opium War marks a pivotal point in China's history. It begins the "Century of Humiliation" which spans the time roughly one hundred years from the Qing defeat in the First Opium War to the rise of the Communist Party. It is frequently cited as "Exhibit A" of the evils of British colonialism, in which a more powerful British military forced opium into a hapless empire by use of force. In other words, it is often called a war in defense of narcotics. Typically, the British and their overwhelming military power are placed at the center of the story, clearly superior to their unlucky opponents. But this generates an obvious question: why did the Qing lose? It does not seem natural for a vast empire of over 400,000,000 people to be defeated by a comparatively small island nation boasting an expeditionary force of merely a few thousand men. The mainstream narrative would indicate that external factors are primarily at fault, but an examination of the Qing reveals a number of internal factors that are worthy of consideration. Several historians have brought new voices to the conversation, indicating a potential change in the historical current. These experts claim that the iconic defeat of the Qing in the First Opium War can be attributed chiefly to chronic problems within the Qing bureaucracy, social structure, and military.

ADMINISTRATIVE DECAY

One set of glaring issues which requires treatment is the decay of the civil service. *China from the Opium Wars to the 1911 Revolution* by Jean Chesneaux, Marianne Bastid, and Marie-Claire Bergère provides an excellent primer on this topic. Originally published in 1972 in French, this manuscript spends its first two chapters laying out chronic issues of the Qing state. This book calls our attention to the fact that the civil service was far more corrupt in reality than it was on paper. According to these authors, the civil service was meant to be "flexible, stable, and balanced in its distribution of power. All

officials were appointed by the central government. They could not hold the same job for more than three years, and they could not be assigned to their native provinces.”¹ Officials were also forced to observe three years of mourning when a close relative passed away, while imperial censors were to be omnipresent, keeping potentially wayward civil servants in line.² In reality, the system was not the well-oiled machine it was intended to be. “Fraud was common; so were inflated reports exaggerating local difficulties and overstating the official’s need for troops and money. The mandarins’ salaries were very low, and it was accepted practice for them to ‘live off the land’ and off ‘presents’ from officials below them in the hierarchy.”³

Thus the ideal of the Qing’s altruistic best and brightest faithfully serving the Son of Heaven was susceptible to corruption and actually encouraged the less scrupulous to amass embarrassing fortunes. A common saying during this period in southern China encapsulates this indifference of the officials to their imperial fidelity, “Heaven is high, and the emperor is far away.”⁴ The most famous case is that of Heshen, the late-18th century Manchu official who maintained the Qianlong Emperor’s favor for 24 years and is frequently held as the prime example of corruption in the late-Qing.⁵ The wealth which he accumulated included two residences with over 600 rooms and a total net worth of roughly 80 million taels of silver, enough to make him roughly as wealthy as the Son of Heaven, the Emperor himself.⁶ Heshen was not an anomaly in the system, however, but a product of it. Reliance on patronage was systemic, and mandarins routinely lied to their superiors. As will be shown later, this corruption also polluted the tax system, causing deep hardship to farmers in the Empire. This corruption had a severe impact on the lives of the average Qing peasant. Both coastal pirates and White Lotus rebels cited the

¹ Jean Chesneaux, *China from the Opium Wars to the 1911 Revolution* (New York: Pantheon Books, 1976), 16.

² Chesneaux, *China from the Opium Wars*, 16.

³ Chesneaux, 16.

⁴ Stephen R. Platt, *Imperial Twilight: The Opium War and the End of China’s Last Golden Age* (New York: Alfred A. Knopf, 2018), 71.

⁵ Wook Yoon, “Prosperity with the Help of ‘Villains,’ 1776-1799: A Review of the Heshen Clique and Its Era,” *T’oung Pao* 98, no. 4-5(2012): 479-527.

⁶ Platt, *Imperial Twilight*, 102-103.

oppression of the people by Qing officials, particularly those of the lower level, as reasons for their insurrections against the Empire.⁷

The civil service was also systematically challenged by the rising population because it naturally led to a rise in men sitting for the famous Confucian examinations. The *pax sinica* that the Qing oversaw produced an army of men aspiring to achieve civil service degrees. The Qing instituted quotas on degrees awarded to keep taxes low, and, while this did limit the number of officials the state had on its payroll, it did nothing to limit the growing number of men attempting the exam.⁸ These quotas meant that as the population skyrocketed, the percentage of men who could obtain degrees plummeted. This left an army of men well-educated, disaffected, and underemployed. These men were often politically active, agitating against the established order which had spurned them. According to Jones and Kuhn, quotas also had the effect of inadvertently stagnating social mobility, “the general trend, especially in the rich and populous south-east, was a decline in mobility rates.”⁹ One result of such stagnation was that local clerks became increasingly abusive, a trend that late-Qing scholar Hong Liangji noted in his works. “Out of a hundred yamen clerks, not even one has advanced to become a [regular] official. Since there is no channel for promotion [to become regular officials], they concentrate on the pursuit of profit.”¹⁰ These yamen clerks were feared by everyone in the community, and were the backbone of local corruption. Hong even makes the claim that “of the amount then extracted from the people, 30 percent may go to the officials, but 50 percent will have gone to the yamen clerks.”¹¹

Failed examination-takers were a critical cog in the late-Qing corruption machine. As men began to realize the futility of sitting for the examinations in the face of astronomical odds, the corrupt patronage system became more influential. Illegitimate routes to

⁷ Platt, 116.

⁸ William T. Rowe, *China's Last Empire: The Great Qing* (Cambridge: Harvard University Press, 2009), 158.

⁹ Susan M. Jones and Phillip A. Kuhn, “Dynastic Decline and the Roots of Rebellion” in *The Cambridge History of China: Late Ch'ing 1800-1911, Part 1* (Cambridge: Cambridge University Press, 1978), 114.

¹⁰ Hong Liangji, “Yamen Clerks” in *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 2nd ed., ed. Wm. Theodore de Bary and Richard Lufrano (New York: Columbia University Press, 2000), 177.

¹¹ Liangji, “Yamen Clerks,” 178.

power, such as bribery and nepotism, became more socially acceptable. "Problems in the education and in the civil service system-enhanced the appeal of illegitimate routes, particularly among men of wealth and influence."¹² Thus relationships between superiors and inferiors were infused with a social hierarchy, "the patronage network, in which patron-client relationships were made to bear more than their usual burden in the workings of the government."¹³ As a result of the increase in applicants, the Confucian examination system began to break down, and illegitimate paths into the elite became more mainstream. Jones and Kuhn assert that "bribery, favoritism, nepotism, and all kinds of gift-giving and tipping were endemic in Chinese bureaucracy, and this fact was accepted and even condoned in some situations."¹⁴ The overpopulation of the empire confronted the Qing examination system; that system's inflexibility, inability to divert educated men to alternative career paths, and educational systems created with the sole aim of producing government officials would ultimately prove costly.¹⁵

The Qing emperors were not always blind to this rampant abuse, but the vastness of the web of bribes, money laundering, and patronage made corruption difficult to root out. Rowe writes that both Jiaqing and Dauguang "followed up with attempts at solutions that, invariably, did not go far enough."¹⁶ For example, the Jiaqing Emperor attempted an anti-corruption campaign in 1799 after the execution of Heshen but essentially stopped pursuing the idea after the mandarin's execution. Platt writes, "he knew how easily an anti-corruption campaign could lose control and become a general purge, for almost nobody was innocent. Officials would readily testify against their personal enemies, turning them in for any number of crimes."¹⁷ By the turn of the 19th century, corruption and fractiousness were so ingrained in the Qing civil service that a purge would likely not have left enough honest, competent men to run the Empire. There was also the fear that the lack of open and honest communications between the throne and civil servants would reach an even greater state of

¹² Jones and Kuhn, "Dynastic Decline," 114.

¹³ Jones and Kuhn, 114.

¹⁴ Jones and Kuhn, 115.

¹⁵ Jones and Kuhn, 110.

¹⁶ Rowe, *China's Last Empire*, 158.

¹⁷ Platt, *Imperial Twilight*, 103.

disfunction if the bureaucrats were intimidated by harsh punishments. This strain of thought was compounded by the somewhat naïve hope that eliminating Heshen would go much farther to solve the issue than it did in reality: “He [Jiaqing] preferred to assume that many were honest officials who had been led astray who, with the proper leadership, could be rehabilitated.”¹⁸ The emperors of this time-period were not afforded the luxury of initiating a focused anti-corruption campaign, at least partially because there were myriad other quandaries vying for their attention.

FINANCIAL CRISES

The economic challenges facing the empire in the first half of the 19th century were severe. As Rowe explains, “there seems to have been a widespread perception, at home and abroad, that by the 1840s economic depression had brought the Qing empire perilously near the point of collapse.”¹⁹ A piece of this was worldly civil servants pocketing funds from the tax system. The basis of Qing taxes was the land tax, which drew 75 percent of the central government’s revenue, and a rice tax on the lower Yangzi River valley to feed the Imperial palace. Salt and customs taxes were also sources of considerable state income. It was common practice for this rice tax to be made payable in silver, set at a fixed rate which had been determined in the early 1700s. Unfortunately for the Qing, even this positive sign of the development of a cash economy became a negative, “by the 19th century the ‘substitution rate’ fluctuated so much that the agents of the yamen often manipulated it as they pleased. Similar oscillations in the conversion rate between copper cash and silver also made it easy to cheat the peasants.”²⁰

There were countless additional methods of extortion put in place by officials. Their prevalence only increased in the first two decades of the 19th century, when the central government became more strict in forcing local officials to account for shortages in funds; rather than curtail their spending, civil servants increased their abuse of the peasants.²¹ These mandarins then skimmed off of the top of the collected funds, resulting in only approximately one-third to one-fifth

¹⁸ Jones and Kuhn, “Dynastic Decline,” 108.

¹⁹ Rowe, *China’s Last Empire*, 158.

²⁰ Chesneau, *China from the Opium Wars*, 43.

²¹ Jones and Kuhn, “Dynastic Decline,” 128.

of collected taxes reaching government coffers. The central government was hemorrhaging funds to its civil servants when taxes were desperately needed for repairing dams and transportation networks. More often than not, officials were the reason there were shortages, as they were responsible for paying not only for their extravagant entourages but also gifts for their patrons.²²

By the 1800s, the problem with the tax system had become egregious. The rise of the money economy allowed officials to commute grain and labor debts to the state in exchange for silver, which allowed civil servants to charge multiple times more than what the state was entitled to.²³ The rate of one silver tael to 1,000 copper coins was disregarded, and some peasants were charged at a rate of upwards of 4,600 copper coins to a silver tael.²⁴ Granaries became dilapidated and held only fractions of their full capacities in food supplies. Public services deteriorated, especially in the Yellow River valley. Dikes fell into disrepair, worsening the hardships of flooding even while the monstrously large bureaucracy, charged with overseeing such problems, consumed 4.5 million taels of silver by the 19th century, a full tenth of the central government's revenue.²⁵

This overspending and corruption contributed to the financial crisis that gripped Qing China in the early 19th century. The early 19th century saw a steep decline in Yunnan copper production, and this was combined with a large circulated quantity of bad money due to poor management of the mints and other financial services.²⁶ During the 17th century, Spanish silver from the new world had begun appearing on Qing China's southeastern coast.²⁷ But the Qing court cannot be seen merely as a victim of circumstance. In regards to the decline in copper, Rowe writes, "in copper mining, the Qing state had a policy of demanding a certain percentage of each mine's output for state purchase, at set prices, to be used for minting coins."²⁸ As the market price of copper rose, the Qing ignored their local officials petitioning for the state to raise their price and continued to buy

²² Jones and Kuhn, 128.

²³ Jones and Kuhn, 129.

²⁴ Chesneaux, *China from the Opium Wars*, 43

²⁵ Chesneaux, 44.

²⁶ Chesneaux, 45.

²⁷ Chesneaux, 45.

²⁸ Rowe, *China's Last Empire*, 151.

copper at well under the market value. Copper mines lost money, and many were forced to close due to central government fiscal policy.

Another factor which upset the Qing financial system was, of course, opium. The Qing had been conducting foreign trade before opium's rise by exporting tea and silk for silver from the western traders. The balance of trade favored the Qing, so foreign merchants were forced to make up the difference in silver. The British, with ideas of trade based in mercantilism, were concerned as increased amounts of silver left their coffers and poured into Qing China. By the 1780s, 16 million taels of silver were lost by Europeans to the Qing in the course of trade, a disaster for economic experts who believed that negative trade balances were unacceptable.²⁹ However, as the Qing demand for opium increased, the balance of trade shifted, meaning that the Qing had to export silver because tea and silk were not sufficient to cover the cost of imported opium.³⁰ This was merely another factor contributing to the scarcity of silver in Qing China.

The result of these converging factors was that the peasants' copper coins became less valuable. Since most peasant farmers paid their taxes in copper coins, the majority of the population was losing money. The financial crisis, worsened in the 19th century by constant rebellion, forced the Jiaqing Emperor to slash funding for the military; as Platt explains, "such measures would stanch the dangerous bleeding of government funds, but they also ensured that the Qing dynasty's military would in the future have less funding, wield older weapons, and suffer from lower morale than when Qianlong was in his prime."³¹ The financial squeeze that the Qing court was feeling was directly linked to the military ineptitude which was on global display in the First Opium War and indeed throughout the last century of its existence.

THE MILITARY

Many historical investigations conclude that Qing military ineptitude led to their demise. While it is clear that the Qing military was far from the only factor contributing to the resounding British victory of the First Opium War, it is undeniable that the Qing armed

²⁹ Jonathan D. Spence, *The Search for Modern China* (New York: W. W. Norton & Company, 1990), 129.

³⁰ Rowe, *China's Last Empire*, 157.

³¹ Platt, *Imperial Twilight*, 124.

forces were in a pathetic state of disrepair and unable and unwilling to handle trained British regulars. The most frustrating aspect of this is that it was both absurd and entirely preventable. But the military's record had been poor since the mid-Qianlong era; catastrophic failures were recorded in Burma in the 1760s and Vietnam in the 1780s.³² The British military was not inherently superior, and the Qing weren't predestined to be rolled back at nearly every encounter. Unfortunately for the Dauguang Emperor, the military system had deteriorated and the Manchu troops which overthrew the Ming, "had lost all fighting spirit by the nineteenth century."³³ Luckily for the Qing, that left the Chinese Army of the Green Standard, certainly large enough to deal with uprisings and easily outnumbering the British by an astronomical figure. Unfortunately, these troops were scattered around the country to avoid a concentration of overwhelming power.³⁴

There were additional kinks in the system: as Chesneaux writes, "inevitably their commanders were jealous of each other, and the units worked badly together. In general, the army officers neglected discipline, allowed the soldiers to maraud, and grew rich by sending in false duty sheets."³⁵ Platt notes an example of this during the White Lotus Rebellion, "it would later turn out that a substantial portion of the hundreds of thousands of militia soldiers who had been recruited to fight the White Lotus did not in fact exist."³⁶ Not only were fraudulent soldiers created, but officials siphoned off death benefits meant for the families of those who died in battle, creating a macabre incentive for officials to have their own men killed in action.³⁷ As with most of the problems in the Qing system, the problem of poor discipline and widespread corruption among officers developed gradually. An excellent case study can be found in the Qing handling of the 1795 White Lotus Rebellion. Stephen Platt notes, "the governor-general of Sichuan province reported with disgust that when government soldiers went into battle they made the militia charge in ahead of them and then hung back where they would be safe. If the

³² Odd Arne Westad, *Restless Empire: China and the World Since 1750* (New York: Basic Books, 2012), 21.

³³ Chesneaux, *China from the Opium Wars*, 18.

³⁴ Chesneaux, 19.

³⁵ Chesneaux, 19.

³⁶ Platt, *Imperial Twilight*, 69.

³⁷ Platt, 69.

militiamen got turned back by the rebels and started to run away, the government soldiers just ran after them.”³⁸ In reality, the Qing troops were often more rapacious than the rebels themselves, with the moniker “Red Lotus” denoting their infamy.³⁹ It is worth noting that these were not the Qing’s elite Manchu Bannerman, as Qianlong denied local officials’ requests for these units, instead sending generous financial aid.⁴⁰ However, ordinary soldiers were already displaying characteristics that would later be maligned for decades when the Qing met the British military. Not only were the general soldiers too weak to face a disciplined fighting force by the mid-19th century, but the generals were also of subpar quality, “Those in the younger generation were comparatively soft from having grown up in such a prosperous age. Among them were a great number tainted by association with Heshen and his network of patronage, who couldn’t be fully trusted.”⁴¹ Incompetent generalship haunted the Jiaqing and Dauguang Emperors’ reigns, and when combined with the cowardice and undisciplined soldiers they commanded, it led to the catastrophic losses at the hands of Great Britain in the First Opium War. It is clear that the Qing Army’s failings were ripe to be exploited by an experienced and organized opposing force.

However, the status of the Qing Navy and coastal defenses must be examined, as Great Britain was a predominately naval power, and launched their campaigns on the Qing’s coastal frontier. The Manchus, being a nomadic dynasty with a military based almost entirely on land warfare, had far less experience with naval engagements. In the early 19th century, the Qing faced a pirate armada of nearly 150,000 sailors under Shi Yang, a threat that the Empire had not faced since the 1660s.⁴² The Qing navy at the time was in a deplorable state, “Its [the Qing navy’s] forces had little funding and morale was low. Commanders could not coordinate with one another, the skills of the sailors and captains were amateurish, and payrolls were usually in default. Ships that were lost in battle or wrecked in storms generally couldn’t be replaced.”⁴³ The Qing did invest more in their navy and

³⁸ Platt, 68.

³⁹ Platt, 68.

⁴⁰ Platt, 67.

⁴¹ Platt, 106.

⁴² Platt, 113.

⁴³ Platt, 114.

coastal defense and constructed new fleets to counter this threat after the White Lotus Rebellion was crushed in 1805.⁴⁴ However, these improvements were moderate at best. By offering amnesty, the Qing were able to diplomatically bring the pirates back under their control and even recruited some of them into their navy.⁴⁵ This is a brilliant and classic piece of Chinese diplomacy; settling a frontier conflict that cannot be solved by force of arms with an offer of peaceful absorption. It was also only a temporary solution to the Qing's naval woes, as the pirates that were recruited would be too old or deceased by the time of the First Opium War, and this same strategy could not be repeated against the British for various reasons. Aggravating this was the use of opium among the rank and file by the 1830s, "imperial troops transferred inland to pacify them turned out to be such heavy users of opium themselves that they could barely fight."⁴⁶ This left the Qing woefully unprepared when war erupted in 1839.

SOCIAL ISSUES

Administrative corruption, economic problems, and military weakness were compounded by troubling social realities that struck at the foundation of Qing rule. The Qing were Manchus, foreigners to China and the Han Chinese. Though the Manchus were a minority, they held a privileged position due to their power. Chesneaux writes, "Manchu dignitaries and nobles were in the majority at court, and Manchus outnumbered Chinese proportionally in the leading state offices. It was easier for a Manchu to gain promotion, even though there were rules providing for equal distribution of government posts among Manchus and Chinese."⁴⁷ Manchu became a second official language, and Manchuria, though possessing fertile farmland aplenty, was off-limits to Chinese peasant farmers.⁴⁸ The Manchu elite simultaneously attempted to retain their legitimacy while remaining apart from the dearth of subjects which they lorded over. Complicating social matters further was the existence of dozens of ethnic minorities within the Empire, people groups who were neither Manchu nor Han Chinese. These included the Zhuang, the Yi, the Miao,

⁴⁴ Platt, 110.

⁴⁵ Platt, 122.

⁴⁶ Platt, 303.

⁴⁷ Chesneaux, *China from the Opium Wars*, 19.

⁴⁸ Chesneaux, 19.

the Dungans, the Mongols, the Uighur Turks, and the Tibetans, among others.⁴⁹ Indeed, this is still a complicated issue causing trouble today. These regional conflicts show the fragmented nature of Qing Chinese society in the nineteenth century. Recent studies into these regional conflicts have produced theories regarding “macroregions.” These macroregions disregard traditional provincial borders, based on a “core” and a “periphery.”⁵⁰ Spence defines a core as an area displaying “heightened economic activity in major cities, high population density, and comparatively sophisticated transportation networks for conveyance of food and merchandise.”⁵¹ A periphery is the less developed, more rural region surrounding the core, which separates the core from the core of other macroregions and was generally poorly policed.⁵² Spence identifies nine macroregions, with examples including the northern microregion and its core of Peking, the middle Yangzi region centered at Hankou, and the lower east coast region, with the port of Amoy as its commercial center.⁵³ These macroregions serve to show just how disjointed the Qing empire was; all of these regions had vastly different social realities and economic systems. The northern region was based on small landholders producing cash crops, while the lower east coast region held many tenant farmers and merchants trading with Taiwan and southeast Asia.⁵⁴ The middle Yangzi region was dealing with a massive inflow of immigrants with loyalty to various home areas, while crime was common in the north and the lower east coast dealt with frequent blood feuds.⁵⁵ These regions possessed their own social structures and economic logic, often having very little to do with many of the other regions. These economic, social, and cultural differences posed a clear and present danger to the Qing, “If the centralizing state proved unable to mediate or control these conflicts, the result might be fragmentation or civil war.”⁵⁶ There were numerous cases of this in the 17th century, such as the Three Feudatories crisis. These macroregions, when combined with the economic disintegration of the periphery and the shift of

⁴⁹ Chesneaux, 20.

⁵⁰ Spence, *Search for Modern China*, 91.

⁵¹ Spence, 91.

⁵² Spence, 91.

⁵³ Spence, 92.

⁵⁴ Spence, 91-92.

⁵⁵ Spence, 91-92.

⁵⁶ Spence, 93.

coastal regions' trade with southeast Asia as opposed to interior Qing China, facilitated uneven economic growth.⁵⁷ The coastal regions became richer, while the periphery and interior regions became poorer, making them more susceptible to the conflicts that ravaged the empire in the 19th century.

Another example of the social diversity of the Qing is the widespread existence of secret societies, with the Triads being the most well-known among them. "Basically they were organizations of political opposition to the Manchu dynasty. They swore loyalty to the Chinese Ming dynasty dethroned in the seventeenth century."⁵⁸ While secret societies in other nations have been benign, secret societies in the late-Qing were capable of dealing great blows to the established order. A famous instance of this is the White Lotus Rebellion, which raged for 8 years in the western region of the Empire, and an attempt within the palace itself was made a few short years later.⁵⁹ Sometimes these groups were comprised of religious dissidents, worshiping in popular, traditional rites. Many embraced feminism among other positions as a revolt against Confucian values. These groups demonstrate the discontent felt by many ruled by the Qing. These societies were often, but not always, involved in the many uprisings of the late-Qing dynasty, as Chesneaux explains, "The secret societies were extremely active during this period, particularly the Triad and its branches in South China. They set themselves up as leaders of discontented peasants, organized attacks on *yamen* and official transport, defied the authorities, and terrorized all who refused to pay them tribute."⁶⁰ These groups have been compared to prates on numerous occasions, and while there are many similarities, a more timely example would be cartels or gangs in present-day North America. Many rebellions were centered on specific ethnic or religious minorities, who abhorred the mandarins' policies of assimilation and repression.⁶¹ Hong, a scholar who witnessed many rebellions during his time as a scholar-official, wrote that officials in areas where rebellions occurred were typically guilty of appropriating taxes, military funding, and court relief aid for

⁵⁷ Westad, *Restless Empire*, 25.

⁵⁸ Chesneaux, *China from the Opium Wars*, 38.

⁵⁹ Chesneaux, 38.

⁶⁰ Chesneaux, 46.

⁶¹ Chesneaux, 42.

themselves.⁶² In Hong's eyes, officials bore the blame for these outbreaks, "The county officials were not able to prevent the spread of heterodoxy by exerting good influences on the people, and when sectarianism spread, the officials would use the pretext of investigating heterodoxy to make demands on the people and threaten their lives, until the people joined the rebels."⁶³ Chesneaux argues that other forms of oppression were rampant, such as when mandarins' and traders colluded, "Officials who governed minority peoples were in league with Chinese traders who paid a low price for rare products (oils, minerals, furs, wool) and charged high for basic necessities like salt and tea."⁶⁴ This meant that the minorities on the Empire's fringes were constantly festering and on the verge of rebelling. Between 1820-1836, the southern and western regions of Qing China revolted in nine of those years to some capacity.⁶⁵

All of these chronic and systematic problems were compounded by the stressors of a massive population boom. While the statistics which we have provide only a rough estimate, there was a population increase of about 200,000,000 people between 1770-1840.⁶⁶ This was evident to scholars at the time, and is far from a construct created as a later explanation for weakness. Hong Liangji, writing in the late 18th and early 19th centuries, wrote, "But in the matter of population, it may be noted that today's population is five times as large as that of thirty years ago, ten times as large as that of sixty years ago, and not less than twenty times as large as that of one hundred years ago."⁶⁷ Hong suggests some potential solutions, such as migration and better grain storage, but ultimately writes, "after a period of peaceful rule, the ruler and the ministers cannot stop the people from reproducing, yet what the ruler and ministers can do for the people is limited to the policies above."⁶⁸ Hong acknowledges that food will run out and stops

⁶² Hong Liangji, "Memorial on the War Against Heterodoxy," in *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 2nd ed., ed. Wm. Theodore de Bary and Richard Lufrano (New York: Columbia University Press, 2000), 179.

⁶³ Liangji, "Memorial on the War Against Heterodoxy," 178.

⁶⁴ Chesneaux, *China from the Opium Wars*, 42.

⁶⁵ Chesneaux, 45.

⁶⁶ Chesneaux, 47.

⁶⁷ Hong Liangji. "China's Population Problem," in *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 2nd ed., ed. Wm. Theodore de Bary and Richard Lufrano (New York: Columbia University Press, 2000), 174.

⁶⁸ Liangji, "China's Population Problem," 175.

writing ominously, “the food for one person is inadequate for ten persons; how can it be adequate for a hundred persons? This is why I am worried about peaceful rule.”⁶⁹ This was one of the late-Qing’s many ominous questions.

Throughout Chinese history, population increases typically corresponded to an increase in crop yields. According to William Rowe, however, the boom of the Qing was different. “Throughout most periods of imperial history prior to the nineteenth century, increased population density per unit of land had led to higher rather than lower food yields, since labor, not land, was in relatively short supply.”⁷⁰ The empires occupying modern-day China had always been underpopulated, with only 100 million people living in the area in 1400.⁷¹ However by around the year 1800, the agrarian land available was at maximum capacity, and an ever-increasing amount of people exhausted an already limited resource.⁷² The Qing alleviated this by militaristic expansion. From the early years of Qing rule to the mid-1700s, Qing armies pushed north into Mongolia and west into Central Asia, opening vast swaths for cultivation. In the mid-18th century, this expansion stagnated. Spence notes that rough figures indicate that from the mid-Kangxi years to the late Qianlong, the population triples while available land only doubled.⁷³ According to Chesneaux, government figures indicate that the amount of land under cultivation decreased slightly, from 741 million mu in 1766 to 737 million in 1833.⁷⁴ Taken together, these numbers seem to indicate a severe slowdown in acreage made available in the mid to late 18th century from a rate that was already unsustainable. Some have postulated that there was a source of relief, “The effects of demographic pressure were no doubt partially allayed by the introduction of crops from America. The arrival of the sweet potato and corn enabled peasants to bring large new areas into cultivation in the hills of Central China, in the mountainous borderlands of the West and Southwest, and especially in Yunnan.”⁷⁵ This may have allowed more food to be grown in certain regions, but that is not to say that there weren’t

⁶⁹ Liangji, 176.

⁷⁰ Rowe, *China’s Last Empire*, 150.

⁷¹ Rowe, 150.

⁷² Rowe, 150.

⁷³ Spence, *Search for Modern China*, 95.

⁷⁴ Chesneaux, *China from the Opium Wars*, 47.

⁷⁵ Chesneaux, 47.

consequences. For example, growing corn in the Southwest eroded the soil and caused floods.⁷⁶ Spence also argued that though new land could be opened, these new crops paradoxically inflamed the demographic problem, “because the crops all grew well in poor, hilly, or sandy soil, they enabled the population to rise rapidly in areas of otherwise marginal productivity, where alternate sources of food or gainful employment were rare.”⁷⁷ The fact of the matter remains that by 1812 acreage per capita was down to less than half an acre per person.⁷⁸ Coupled with population growth was increased unemployment, and the rice-producing regions struggled to meet their own needs, let alone that of the less fertile provinces.⁷⁹

While the population boom was certainly responsible for pushing people down in late-Qing society, it was also responsible for pushing them out. Sichuan, a province on the outskirts of the Han cultural core areas located to the east, saw mass migration to its fertile regions. Indicative of the pressure of the uncontrollable population growth is that even far less productive land was desirable. “Even its eastern border mountains were filling up with refugees.”⁸⁰ Han and Hakka competed for scarce land in the Guangxi river valleys while waves of Han migrants to Hunan triggered violent confrontations with the Miao.⁸¹ The Yangzi river valley, which would become the heart of the Taiping rebellion just years after the First Opium War, was among the most crowded areas. In short, there was a trend toward underemployment, impoverishment, and starvation. The horrendously violent revolts of the nineteenth century took place against this backdrop, providing reasonable cause to popular discontent.

OPIUM

Opium could certainly have been covered in a previous section, but the importance that it plays in the historical narrative is great, and it is thus deserving of its own treatment. Firstly, it is important to establish that opium had been present in mainland Asia for centuries,

⁷⁶ Chesneaux, 48.

⁷⁷ Spence, *Search for Modern China*, 95.

⁷⁸ Rowe, *China's Last Empire*, 150.

⁷⁹ Chesneaux, *China from the Opium Wars*, 48.

⁸⁰ Jones and Kuhn, “Dynastic Decline,” 109.

⁸¹ Jones and Kuhn, 110-111.

and was not forced on the Qing by European merchants. Opium was in considerable demand in the early 19th century, and the region was no stranger to the substance. There are records of poppy cultivation as far back as the 8th century Tang Dynasty.⁸² The Ming and early Qing Dynasties taxed opium as a legitimate medicinal product, and doctors praised its ability to ease a wide range of ailments, from intestinal distress to a bad cough.⁸³ The smoking of opium was introduced via Taiwan in the early 18th century and promptly banned by the Yongzheng Emperor.⁸⁴ However, from that to the early 19th century, there is no evidence of a crackdown by the Qing on opium traders or smokers.⁸⁵ This is likely due in part to the fact that during that time the supply of opium had not yet exploded, so the drug was essentially confined to the wealthy. Indeed, multiple British officials were approached in the late 18th and early 19th centuries by their Chinese counterparts attempting to obtain the drug. To British observers, there seemed to be no stigma against the drug among the elite, as it was considered a luxury and sign of high social status.⁸⁶

The drug began its meteoric rise in Qing China in 1820, and by 1830 over 18,000 130 to 160-pound chests of opium were being imported into Canton yearly.⁸⁷ Even in 1820, enough opium was already being imported to satiate the habit of over one million addicts.⁸⁸ This did not include the domestic opium market, a much smaller but not insignificant supplement to the foreign trade. Opium grown domestically or obtained from, the Silk Road was cheaper than that brought from India to Canton, but the Qing upper class was seeking a status symbol. Qing China has been stereotyped by many Western academics as an isolationist, backward, and overall closed off society. In flagrant contradiction to these stereotypes, the wealthy were eager for foreign items, meaning that the demand for British opium was much higher than the demand for more local supplies of the drug.⁸⁹ This in spite of the fact that opium trading and use were technically illegal under the Qing legal code. The opium trade could

⁸² Platt, *Imperial Twilight*, 223.

⁸³ Platt, 223

⁸⁴ Platt, 224.

⁸⁵ Platt, 224.

⁸⁶ Platt, 195.

⁸⁷ Platt, 199.

⁸⁸ Spence, *Search for Modern China*, 129.

⁸⁹ Platt, *Imperial Twilight*, 227.

not have grown as rapidly as it did without the help of unscrupulous officials, who accepted bribes routinely from Chinese traders.

Use of the drug penetrated all levels of society, with many eunuchs in the Forbidden City likely to have been addicted.⁹⁰ Even Jiaqing's heir, Prince Mianning was a smoker. He wrote, "I ask the servant to prepare smoke and a pipe to inhale. Each time, my mind suddenly becomes clear, my eyes and ears refreshed. People in the past said that wine is endowed with all the virtues, but today I call smoke the satisfier."⁹¹ Jiaqing became more concerned as the second decade of the 19th century wore on, writing, "before long, it will steal their life and kill them."⁹² The main problem facing the Jiaqing Emperor was that because opium had been used by Qing elites for decades, it was becoming a respectable pastime. This combined with the rapidly increasing supply meant that opium was potentially on the verge of a massive boom. In 1820, Prince Mianning, the embodiment of Qing imperial privilege, became the Daoguang Emperor, and despite his personal habit, he would carry forth his father's work on what was perceived as a critical threat to his already fragile empire. In the early years of his reign, the Daoguang Emperor called officials who took bribes from opium smugglers "traitors." He also declared opium, "a great harm to the morals and customs of the people."⁹³ This moralizing is unlikely to have been effective, especially as the Qing continued to lose prestige, and at least in his early years, Daoguang was unwilling to act swiftly and harshly in his southern provinces.

This changed as opium began to tighten its grip throughout the first decade of Daoguang's reign, launching him into a heightened state of concern by 1830, "opium is flooding the interior. The multitude of users expands day by day, and there are more and more people who sell it; they are like fire and smoke, destroying our resources and harming our people."⁹⁴ Realizing the extent of the problem, especially among bureaucrats, Daoguang attempted a crackdown in 1831, only to find that the most important traders and den operators were protected by their connections, stymying his ability to intervene. Daoguang adopted a policy of lenience toward the

⁹⁰ Platt, 224.

⁹¹ Platt, 222.

⁹² Platt, 225.

⁹³ Platt, 225.

⁹⁴ Platt, 229.

common opium addict, hoping to show that he truly cared for his subjects and didn't want to compound the hardships that they faced.⁹⁵ This hands-off approach did little to halt the narcotics tide flooding in from the South Sea. But why did opium smoking become so rampant in late-Qing society? With no literature on the subject surviving, historians can only raise educated guesses. One theory is that opium appeals to those who are attempting to manage intensely stressful situations.⁹⁶ In an overcrowded, politically corrupt, financially troubled society, many would have found comfort in an escape from harassment from civil servants or their lack of economic opportunity. Perhaps mandarins with wasteful jobs or wealthy women trapped in their compounds abused the drug due to boredom. Laborers may have smoked to numb the pain of long, brutal workdays. It seems that opium was not a primary problem, but a symptom of the wider issues facing the Qing at a more fundamental level. Regardless, it did contribute to the Qing's steep decline of the 19th century.

DISSENT

Naturally, there is no true consensus on these matters. Odd Arne Westad, a professor at the London School of Economics and Political Science, makes an argument that foreign factors, not domestic, were primarily responsible for Qing weakness. This is predictable, as the author in question is an expert on international history. This school of thought challenges the importance and often the existence of some of the domestic issues that have received much credence in the past. For example, Westad writes, "In terms of population growth, fertility rates in China seem to have increased in ways comparable to European populations."⁹⁷ Additionally, Westad argues, "By the early 19th century, the Chinese economy was stable but not flourishing."⁹⁸ Unfortunately, it isn't clear what statistics are being used to derive these revisionist assumptions, and thus difficult to reconcile them with the numerous sources emphasizing the matters Westad downplays. The problems that Westad sees as the most relevant to 19th century Qing weakness are misrule, foreign invasion, wars, and

⁹⁵ Platt, 232.

⁹⁶ Spence, *Search for Modern China*, 131.

⁹⁷ Westad, *Restless Empire*, 24.

⁹⁸ Westad, 24.

rebellions.⁹⁹ Interestingly, while he claims to be arguing that foreign causes were primarily responsible for Qing weakness, at least two of the causes which he lists are primarily internal. Obviously, both foreign and domestic factors played significant roles, and Westad concedes that concerns were mounting by 1800. At the same time, he introduces internal concerns yet to be extrapolated here, such as the loss of prestige suffered under the reigns of the Emperors Jiaqing and Daoguang. “Jiaqing’s role had diminished the stature of the Emperor, and the weakness of the office haunted his son and successor, Daoguang, during his thirty-year reign.”¹⁰⁰

In conclusion, it seems that the position that the Qing were defeated in the First Opium War due to outside factors is taken only when ample evidence to the contrary is disregarded. By the 19th century, the Qing civil service had grown corrupt and based on patronage to such a degree that the Emperor himself considered it to be irreparable. A financial crisis, developing from a combination of incompetent policy, a woefully inefficient tax system, and the trend of global markets brought predictable hardship. A military that had fallen into disrepair due to a prolonged peace, the vastness of the land it was expected to protect, lack of financial support, inept leadership, drug addiction, and lack of discipline proved itself ineffective decades before the British campaign commenced in 1839. The social order was dynamic, composed of many groups with varying and often competing interests. Complex social issues such as overpopulation, massive internal migration, regional isolation, frequent rebellions, and the multiethnic nature and religious diversity of the peoples under Qing rule complicated governance. Adding to all of these problems was opium, infecting all levels of the social hierarchy exploiting the disaffection and futility already experienced by millions. Imposing order in such a chaotic environment was challenging in times of peace and prosperity and proved nearly impossible in the middle of a prolonged and steady imperial decline. Given all of these complications, it becomes clear that the British victory was made possible by internal crises and incompetence, with British military might playing a much less significant role than previously assumed.

⁹⁹ Westad, 25.

¹⁰⁰ Westad, 23.

BIBLIOGRAPHY

- Chesneaux, Jean. *China from the Opium Wars to the 1911 Revolution*. New York: Pantheon Books, 1976.
- Jones, Susan M. and Kuhn, Phillip A. "Dynastic Decline and the Roots of Rebellion" in *The Cambridge History of China: Late Ch'ing 1800-1911, Part 1*. Cambridge: Cambridge University Press, 1978.
- Liangji, Hong. "Yamen Clerks." In *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 177-8. Second Edition. Edited by Wm. Theodore de Bary and Richard Lufrano. New York: Columbia University Press, 2000.
- Liangji, Hong, "Memorial on the War Against Heterodoxy." In *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 179-180. Second Edition. Edited by Wm. Theodore de Bary and Richard Lufrano. New York: Columbia University Press, 2000.
- Liangji, Hong, "China's Population Problem." In *Sources of Chinese Tradition: From 1600 Through the Twentieth Century*, 174-176. Second Edition. Edited by Wm. Theodore de Bary and Richard Lufrano. New York: Columbia University Press, 2000.
- Platt, Stephen R. *Imperial Twilight: The Opium War and the End of China's Last Golden Age*. New York: Alfred A. Knopf, 2018.
- Rowe, William T. *China's Last Empire: The Great Qing*. Cambridge: Harvard University Press, 2009.
- Spence, Jonathan D. *The Search for Modern China*. New York: W. W. Norton & Company, 1990.
- Westad, Odd A. *Restless Empire*. New York: Basic Books, 2012.
- Yoon, Wook. "Prosperity with the Help of 'Villains,' 1776-1799: A Review of the Heshen Clique and Its Era." *T'oung Pao* 98, no. 4-5 (2012): 479-527.

“EVERY NORTH AMERICAN SHALL BE PUT TO DEATH,” AND OTHER VISIONS FOR A MORE JUST SOCIETY: RACIAL GEOGRAPHIES OF THE 1915 PLAN OF SAN DIEGO

ASA KRAMER-DICKIE

*“Every North American over sixteen years of age shall be put to death;
and only the aged men, the women, and the children shall be respected;
and on no account shall the traitors to our race be spared or
respected.”*

-Article VII, Plan of San Diego, 1915

On January 6, 1915, nine Mexican prisoners held in a jail in Monterrey, Mexico signed a document known as the Plan of San Diego. The plan was to begin six weeks later on February 20, and would entail the occupation and liberation of five states in the U.S. Southwest that had been taken “in a most perfidious manner by North American imperialism.” The Plan of San Diego was a multi-racial vision that sought an alliance between Black, Japanese, Mexican, and indigenous communities to oppose imperialism and white supremacy. It strove to liberate the “black race” from the violence of “Yankee tyranny,” and after taking the five U.S. states, it would take six more states to form an independent Black republic. It also allied itself with the “Apaches of Arizona as well as the Indians (Red Skins) of the Territory,” and promised a return of indigenous ancestral lands, assuming those groups joined in the struggle.¹ Upon liberating these areas, the Plan stated that “All ways of communication, all rural property are to belong in common... All racial hatred would end and schools would be established to teach the principles of ‘Universal Love.’”² While the

¹ Juan Gómez-Quíñones, “Plan de San Diego Reviewed,” *Aztlán* 1 (Spring 1970): 128–29. See Appendix A for a full translated copy of the Plan of San Diego.

² Quoted in James A. Sandos, “The Plan of San Diego: War & Diplomacy on the Texas Border 1915-1916,” *Arizona and the West* 14, no. 1 (1972): 9–10. This phrase

Plan itself was discovered and eventually stamped out by U.S. authorities, its demise required the concerted effort of every level of the U.S. citizenry, peaking in October of 1915 when the entire active-duty U.S. army was stationed along the Rio Grande.³ The Plan also played a central role in the tumultuous international relationship between the United States and Mexico, which were brought to the brink of war in the summer of 1916. To this day, the authorship of the Plan is disputed,⁴ and the adherents to the Plan ranged from Mexicans and Mexican-Americans— on all sides of the Mexican Revolution, which was raging just south of the Border— to indigenous people, Black people, and Asian people.⁵

was in a revised edition of the Plan which was written on February 20, 1915, the day the original Plan was set to begin. This revised edition will be explained more fully in the coming pages.

³ Charles C. Cumberland, "Border Raids in the Lower Rio Grande Valley-1915," *The Southwestern Historical Quarterly* 57, no. 3 (1954): 305.

⁴ The historiography here is unclear. Venustiano Carranza, a revolutionary leader and eventual president of Mexico (1917-1920) claimed that it was a Magonista (adherents of anarchist Ricardo Flores Magón) plot to exploit tensions between the U.S. and Mexico and get the U.S. Army to side with more radical factions of the Mexican revolution; Flores-Magon claimed that it was a media hoax and that the uprising was simply a response to racist anti-Mexican violence, but agrees that the adherents to the Plan are anarchist because they "don't obey any leadership"; The U.S. government speculated that it was a German plan to deter the U.S. from entering WWI; Harris and Sadler argue that Carranza was behind the Plan the entire time as a political tool to get recognition from the US; while Gómez-Quíñones argues that it was exactly what it claimed to be: an uprising of Mexican Americans seeking land, justice, and equality. The authorship is further complicated by the fact that the nine original signatories claimed allegiance to Victoriano Huerta, a military commander who seized the government in 1913 and was later forced out. This paper reads with the argument of Gomez-Quíñones, but regardless of who exactly was behind the Plan, what is more important in this paper (and generally, I would argue) is what came of Plan, the movement surrounding it, and the responses to it. Ricardo Flores Magón, *Dreams of Freedom: A Ricardo Flores Magón Reader*, ed. Chaz Bufe and Mitchell Cowen. Verter (Oakland, CA: AK Press, 2005), 91, 206, 207; Charles H. Harris and Louis R. Sadler, "The Plan of San Diego and the Mexican-United States War Crisis of 1916: A Reexamination," *The Hispanic American Historical Review* 58, no. 3 (1978): 381-408, <https://doi.org/10.2307/2513956>; Juan Gómez-Quíñones, "Plan de San Diego Reviewed"; James A. Sandos, *Rebellion in the Borderlands: Anarchism and the Plan of San Diego, 1904-1923*, 1st ed. (Norman: University of Oklahoma Press, 1992), 101.; Sandos, "The Plan of San Diego," 7.

⁵ James A. Sandos, *Rebellion in the Borderlands: Anarchism and the Plan of San Diego, 1904-1923* (Norman: University of Oklahoma Press, 1992): xv.

The Plan of San Diego, in its spatial representation, practice, and rhetoric, articulated a vision for the Southwest United States that defied the spatial and racial logics that were constitutive of the U.S. and Mexican nation-building projects. The Plan itself did not view the United States and Mexico equally: it unapologetically rejected U.S./Anglo imperialism and racism, while remaining open to future annexation by Mexico, though it stipulated that it would not accept any aid from the Mexican government. Similarly, the United States and Mexico had different views of the Plan: the U.S. saw it as a danger to American citizens and property, while Mexico at some moments supported and at other points rejected the Plan. Regardless of the relationships between Mexico, the United States, and the Plan of San Diego, however, as a revolutionary vision and plan of action that undermined the racial logics and sovereign basis of the U.S. and Mexican nations, the Plan was ultimately responded to with violence from both sides. Such violence was justified by drawing on the fraught history of colonial and neo-colonial encounters with indigeneity, and by projecting the constructed figure of the “barbarous indian” onto adherents of the Plan.

The Plan of San Diego emerged from the early twentieth-century anarchist movement, and especially the work and thought of noted Mexican revolutionary Ricardo Flores Magón. Beginning his activism in Mexico City as a Liberal reformer against the Porfirio Díaz regime, Flores Magón, along with his brother Enrique, became increasingly disillusioned with Liberalism and Mexican nationalism as the Porfiriato fell.⁶ Together, the Flores Magón brothers started the Partido Liberal Mexicano (PLM), but stated in 1908 that in reality the “liberal clubs were socialist,”⁷ and by 1911 had developed a thorough critique of the state, capitalism, and the clergy, advocating for a full-

⁶ For a fuller picture of the political development of the Flores Magón brothers and the PLM, see Ward S. Albro, *Always a Rebel: Ricardo Flores Magón and the Mexican Revolution* (Fort Worth: Texas Christian University Press, 1992); Flores Magón, *Dreams of Freedom*; Sandos, *Rebellion in the Borderlands*; Juan Gómez-Quiñones, *Sembradores, Ricardo Flores Magon y El Partido Liberal Mexicano: A Eulogy and Critique.*, Rev. ed., Chicano Studies Center Publications. Monograph No. 5 (Los Angeles: University of California, Chicano Studies Center, 1977); Claudio. Lomnitz-Adler, *The Return of Comrade Ricardo Flores Magón* (Brooklyn, NY: Zone Books, 2014).

⁷ Juan Gómez-Quiñones, *Sembradores, Ricardo Flores Magon y El Partido Liberal Mexicano*, 28.

fledged anarchist revolution.⁸ While Ricardo Flores Magón was a central activist in the Mexican revolution, his role was more of a writer, publisher, and visionary than an active fighter. Engaged in an “incessant battle of words and images,”⁹ the value of Flores Magón’s work must be judged as much in its imaginative capacity as in its practicality. While visioning is often sidelined in revolutionary discussions, it is worthy to note that the U.S. Department of Justice recognized the danger in these ideas: “While anarchists might live miserably, their dedication to their ideals— despite the lack of means to achieve them— made them politically dangerous.”¹⁰ In this line, we can imagine that the revolutionary vision of the Plan of San Diego posed a legitimate threat to the sovereignty of the United States. Indeed, when on May 13, 1915, nine Plan of San Diego adherents were indicted by a federal grand jury in Brownsville, Texas, they were charged with conspiring to steal “certain property of the United States of America, contrary to the authority thereof, to wit, the states of Texas, Oklahoma, New Mexico, Arizona, Colorado, and California...”¹¹ This peculiar indictment shows that the United States government saw the Plan of San Diego, regardless of its practicality, as a direct threat to its sovereignty. Though the Plan amounted to an eventual “practical” failure (i.e., its vision was not achieved), the raids it produced, as well as the visionary critique it proposed, figured centrally in both the national and international landscape.

Relying on a theory of racial geography— understood by Maria Josefina Saldaña-Portillo as “a technology of power, and when used as an analytic and theory of spatial production, it indexes the series of techniques used to produce space in racial terms”¹² — this paper explores how the Plan of San Diego both practiced and represented space: how literal border geographies were inhabited and contested; how geographical representations of the borderlands were produced,

⁸ Gómez-Quiñones, *Sembradores*, 6.

⁹ Andrew Cornell, *Unruly Equality: U.S. Anarchism in the Twentieth Century* (Oakland, California: University of California Press, 2016), 22.

¹⁰ Santos, *Rebellion in the Borderlands*, 129.

¹¹ *U.S. v. Basilio Ramos et. al.*, District Court, Brownsville, no. 2152 (1915). Cited in Harris and Sadler, “The Plan of San Diego and the Mexican-United States War Crisis of 1916,” 381.

¹² María Josefina Saldaña-Portillo, *Indian Given: Racial Geographies across Mexico and the United States* (Durham and London: Duke University Press, 2016), 17.

undermined, and destroyed; how racial logics mapped over each other, onto land, and onto human bodies; and how understandings of space and land were challenged and usurped. All of this happened through a racialized lens in which different subjects were interpellated through different processes at different times. Drawing on Henri Lefebvre, Saldaña-Portillo differentiates between spatial practice and spatial representation, which, while distinct, go hand in hand. It is not spatial practices alone – “those concerned with production and reproduction of life (and death) and of social relation” – that produce space; the production of space is also constituted representationally “by scientists, urban planners, social engineers, and artists, among others, who ‘identify what is lived and what is perceived [in spatial practice] with what is conceived.’”¹³

As a vision that was never executed, the Plan of San Diego must be viewed in its dual practical and representational capacities. Despite the fact that it was crushed less than one year after it was originally produced, its vision – spatial, racial, geographical – was anything but a failure. And despite its ultimate practical ‘failure,’ there were very real – that is, material – spatial, racial, and geographic consequences that mapped across landscapes and bodies. If we take Saldaña-Portillo at her word that “these spatial practices and representations [examined in *Indian Given*] of space together produce ever-fluctuating racial cartographies of the Mexico-U.S. border,”¹⁴ some questions arise: what racial cartographies of the border were created by the Plan of San Diego? How were these racial cartographies “graphed around the troublesome trace of the Indian,” if at all?¹⁵ How did these racial cartographies contest, reinforce, and intersect with other racial geographies across Mexico and the United States?

This paper will take up questions of the context of the Plan of San Diego: the long legacy of colonial violence in Mexico and the United States; the racial geographies that intersect(ed) the US/Mexico border; the varied local, national, and international political movements that influenced and affected the Plan; and the representation and contestation of land and sovereignty through the Plan, its adherents, and its contemporaries. This paper is also

¹³ Saldaña-Portillo, *Indian Given: Racial Geographies across Mexico and the United States*, 22–23.

¹⁴ Saldaña-Portillo, *Indian Given*, 23.

¹⁵ Saldaña-Portillo, 22.

centrally concerned with the lives, bodies, minds, and dreams of those surrounding the Plan; how people were subjected to racialized and gendered violences, how movements and communities were formed around resistance to those racialized and gendered violences, and how people offered forth – through their actions, writings, and movements – a vision that contested the notion that how things are is how they have always been and will always be. The central argument of this paper is that the Plan of San Diego, along with the anarchist movement that laid the foundation for its emergence, articulated a response to three related spatial paradigms. First, the anarchist-inspired¹⁶ Plan directly contested the racial logic of the borderlands – mediated through the Treaty of Guadalupe Hidalgo – that functioned around the racialized figures of the “indio” and the “Indian” to determine who was included and who was excluded from the nation. Second, the Plan of San Diego came in direct response to two related technological developments – the arrival of the railroad and European crop irrigation to the Southwest – that transformed the South Texas landscape. And finally, the Plan of San Diego disputed the system of private property, which is at the root of the liberal notion of sovereignty that undergirds both the United States and Mexico. Without making a cause-and-effect argument between these three related spatial paradigms and the emergence of the Plan of San Diego, this paper hopes to show how these three paradigms affected the borderlands in such a way that made space for the emergence of the Plan of San Diego.

This paper continues in multiple sections. To begin, this paper will explore the colonial history of the Americas, outlining the divergence between the Spanish and English encounters with indigeneity, and the consequent racial geographies that emerged. From there, the three primary spatial phenomena to which the Plan of San Diego emerged in response – the racial geography of the borderlands as it was laid out by the Treaty of Guadalupe Hidalgo, the early-twentieth-century technological developments in South Texas,

¹⁶ I write “anarchist-inspired Plan” rather than “anarchist Plan” because, as James Sandos has pointed out, the desire to form an independent republic is antithetical to decentralized, non-governmental anarchist philosophy. Nonetheless, as will be shown throughout this paper, the Plan aligned itself with the anarchist movement of the borderlands in its call for land expropriation, communalism, and in its critique of U.S. Liberalism. Sandos, *Rebellion in the Borderlands*, 84.

and the contradictions of liberal sovereignty – will be examined in depth. Next, this paper will outline the ways in which the Plan of San Diego articulated its response to these spatial phenomena, in both its representational and practical formulations. Following that, a historical account of the events of the raids and the reactions to those raids – by Anglo vigilante groups, state militias, and the federal governments of both the United States and Mexico – will shed light on how the figure of the “*indio bárbaro*” was deployed against Plan of San Diego adherents in defense of the liberal sovereignty of both the U.S. and Mexico, and in defense of the racial geographies of the newly annexed U.S. Southwest. To conclude, this paper will make a case for the power of radical visioning, exemplified in the Plan of San Diego, in the fight against racist colonial domination.

COLONIAL (RE)MAPPING OF THE AMERICAS: THE RACIAL GEOGRAPHIES OF NATION-BUILDING

The racial geographies of the US/Mexico border reach back 500 years to the moment Europeans set foot on the American continent. In *Indian Given: Racial Geographies across Mexico and the United States*, Josefina Saldaña-Portillo argues that “the national geographies and the geography of the border region [are] meticulously produced through the colonial encounters with indigeneity... The geographies of the United States and Mexico have been produced, materially and representationally, through historical, social, and racial relation with indigenous subjects.”¹⁷ The racial geographies on either side of the border, however, are not equivalent. One was produced relationally between Spanish Catholic colonialism and the indigenous people they encountered in what is now Mexico, while the other was produced relationally through English Protestant settler colonialism and the indigenous people they encountered in what is now the United States. Saldaña-Portillo differentiates between these two racial geographies with the terms “indio” and “Indian,” that, while rough translations of each other, are not equivalent. *Indian Given* is an exploration of both untranslatability of these two terms, as well as the relations and intersections of the racial geographies that these distinct terms represent.¹⁸ Likewise, this paper is geographically focused on the

¹⁷ Saldaña-Portillo, *Indian Given*, 6.

¹⁸ Saldaña-Portillo, *Indian Given*, 8.

U.S./Mexico borderlands, and is thus concerned with the moments at which these distinct racial geographies interact and collide.

The European encounter with indigeneity in the Americas can be characterized within a dialectical framework of potentiality. That is, there are two types of indigenous subjects – docile/hostile, those with fidelity/infidels, domesticated/savage – and at any one point, depending on the complexities, needs, and power relations of the specific colonial project, those indigenous subjects can be on either side (and are both sides) of the binary; it is not an either/or, but a both/and.¹⁹ In the case of Spanish colonization, the binary between the civility/barbarity of “indios” is visible in Spanish census categories by the end of the Mexican War of Independence in 1821.²⁰ Unlike the U.S. at the same time, Mexico simply divided its censused population into two groups: “*gente de razón*” and “*indios*.”²¹ These categories were not static, however, and contrary to their logical interpretation, indigenous people were not necessarily classified as “*indios*.” For indigenous people to be classified as “reasonable people,” they had to recognize the *sole* sovereignty of Spain. The “*indio*” category was reserved for all those populations who recognized a sovereign power in addition to that of the Spanish crown; that is, if one were a “pacified,” Christianized “Indian” who recognized the sovereignty of Spain and *also* maintained their own structures of governance and social organization, they would be classified as “*indio*.” At any point, an indigenous person could cross this census line by abandoning claims to tribal sovereignty, highlighting the transient nature of indigenous subjectivity.²²

In the emergence of the Mexican nation (following the War of Independence of 1810-1821), and well into the Liberal reforms of the

¹⁹ Saldaña-Portillo, 53.

²⁰ For the sake of space, I am not going into the debates on indigenous humanity in the early colonial period. For a more robust discussion on how indigenous civility/barbarity was imbued at this time, see Saldaña-Portillo, 36-53.

²¹ Prior to this historical moment, New Spain had a complex system of racial classification. The transition to a simplified racial classification is representative of the shift towards a Liberal humanist philosophy advocated by the Catholic Church, which was itself a relic of the Bourbon Reforms of the mid to late eighteenth century, and the increasing influence of European liberalism in Spain. For more on Spanish racial classifications see Martha Menchaca, *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans* (Austin: University of Texas Press, 2001), 166–69.

²² Saldaña-Portillo, *Indian Given*, 119–20.

1850s and 1860s, this fraught history of indigenous inclusion/exclusion persisted. Liberal reformers denounced the parochial and heterogenous indigenous township model of community organization – itself a relic of colonial reform and imposition²³ – as it was seen as an obstacle to the project of modernization because it was not built around the universalizing idea of private and individual land ownership. The debate revolved around conceptions of liberal sovereignty, and indigenous relations to this notion of sovereignty. In her book *Walled States, Waning Sovereignty*, Wendy Brown writes, referring to political theorist Carl Schmitt, that “Schmitt [sic.] exaggerates only slightly [sic.] when he says that for Locke ‘the essence of political power is its jurisdiction over the land.’”²⁴ From this it follows that sovereignty is premised not only on a relationship to land, but a particular conception of land that is privately and individually owned. It is through the process of land enclosure – walling land off and declaring it as one’s own – that sovereignty is born.²⁵

The fact that private property is at the foundation of liberal thought, and the fact that “Indians” were living in townships meant not only that “Indians” were the obstacle to modernity, but also that they were the obstacle to a complete modern nation. The project of Liberal reformers, then, was to “transform the particularity of Indian difference into the abstractness of liberal citizenship.”²⁶ The 1857 Mexican Constitution was a central project in the formation of abstract liberal citizenship. Far more progressive than the U.S. Constitution, the 1857 Constitution extended freedom to, and guaranteed government protection of, all enslaved people who set foot in Mexico (slavery had been outlawed in Mexico since 1829); and prohibited all forms of indentured servitude or unpaid labor. These articles came in direct response not only to the United States but also Mexico’s colonial history – a history it sought to distance itself from

²³ Townships were a mechanism of colonial resource extraction, in which dispersed indigenous populations were “voluntarily” relocated to townships upon conversion to Christianity. For more information on townships see Maria Josefina Saldaña-Portillo, *The Revolutionary Imagination in the Americas and the Age of Development* (Durham and London: Duke University Press, 2003), 200-201.

²⁴ Wendy Brown, *Walled States, Waning Sovereignty* (New York: Zone Books; 2017), 44.

²⁵ Brown, *Walled States*, 45.

²⁶ Saldaña-Portillo, *The Revolutionary Imagination*, 203.

by extending freedom and equality to all of its citizens regardless of race, ethnicity, or nationality. This inclusive racial imaginary, however, served both assimilative and individualizing ends. Under Spanish colonialism, indigenous people were allowed a level of flexibility (exemplified by the census categories references above, but also extending to a degree of territorial autonomy for certain groups, such as the Navajo, Comanche, and Apache), and were defined as a group with political rights, however limited they may be. But universalized liberal citizenship shifted the distinction between “Indians” and “non-Indians” from one of political rights to one of individual cultural difference.²⁷

The racial geography of the Mexican nation was created around an inclusive principle: in the development of the Mexican nation – and through the liberal reforms of the 1850s and 1860s – *mestizaje* was exalted as the mix of two cultures, Spanish and indigenous, that could create a unified nation. It was the newly created “fusion” of two races that a third would be born and would come to represent Mexican national character.²⁸ However, this inclusionary principle came at a cost. As Arjun Appadurai writes, “no modern nation, however benign its political system and however eloquent its public voices may be about the virtues of tolerance, multiculturalism, and inclusion, is free of the idea that its national sovereignty is built on some sort of ethnic genius.”²⁹ The creation of the Mexican nation was certainly premised on “the virtues of tolerance, multiculturalism, and inclusion,” and indeed a central debate of the Liberal reforms was how to best include Mexico’s indigenous population. If we take Appadurai at his word, the question arises: what was the “ethnic genius” of the newly formed Mexican nation? In line with Brown and Schmitt’s argument that national sovereignty is born through enclosure, it becomes apparent

²⁷ Saldaña-Portillo, *Indian Given*, 123-24.

²⁸ Saldaña-Portillo argues that the “fusion” was less of a fusion and more of process of cultural exploitation. Drawing on Manuel Gamio, who is considered to be the intellectual architect of indigenous incorporation into the Mexican nation post-independence, Saldaña-Portillo illustrates how Gamio imagined indigeneity not as the numerical majority (which it was), or even as an equal to Creole elites, but as a “latent fund of ‘powerful energies’ waiting to be harnessed - channeled - in the service of the nation.” That is, the question of *mestizaje* was not how to fusion two races to make a third, but how to utilize a resource lacking its full potential. Saldaña-Portillo, *The Revolutionary Imagination*, 208.

²⁹ Arjun Appadurai, *Fear of Small Numbers: An Essay on the Geography of Anger* (Durham and London: Duke University Press, 2006), 3.

that Mexican nationhood was created through the transition away from townships and towards private property ownership. This occurred at the cost of indigenous spatial practices, forming an ethnic genius around the denigration of indigeneity. While claiming multiculturalism, these Liberal reforms denied indigenous spatial practices and collective land management, which were now viewed as a threat to the new and fragile nation. Indigenous character was allowed; indigenous spatial practice was not.

As opposed to New Spain, and later Mexico, in the British colonies, and later the U.S., indigenous spatial practice was categorically denied, and indigenous character was accepted only in the service of colonial land acquisition. This was most visible through the process of simultaneously imbuing indigenous people with and without reason. Colonial logic had it that propertied and civilized “Indians” could reasonably sell their land, thus rendering colonial purchases of land “just.” This happened through the use of contracts, in which English colonists “obtained Indian land in ‘a faire Purchase,’ in a ‘lawfull bargain,’ with the ‘Consent’ of these ‘exact Observers of property.’”³⁰ The fact that these contracts were fraudulent, however, was not an unjust aberration of the contract form, but a constitutive piece of indigenous-settler relations, in which “Indians” were seen as human precisely because of their ability to sell their land. It was through the capacity to reason – and thus the capacity to contractually sign away land – that indigenous people were imbued with humanity.³¹ Extending the argument of Cheryl Harris, Saldaña-Portillo writes, “If the property of whiteness was emblemized by the capacity to buy and hold property, then the property of indigeneity was emblemized by the capacity to hold and relinquish land.”³² With the passage of the Indian Intercourse Act of 1790 by the U.S. Congress, however, this colonial logic of indigenous reason and humanity saw a complete reversal. The act stated that “no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state ... unless the same shall be made and duly executed at some public treaty held under the authority of the United States.”³³ Refuting the long history

³⁰ Saldaña-Portillo, *Indian Given*, 56.

³¹ Saldaña-Portillo, 58.

³² Saldaña-Portillo, 59.

³³ Quoted in Saldaña-Portillo, 62.

of recognizing indigenous land ownership, this transition from contract to treaty as the method of proper land acquisition was a simultaneous transition from indigenous reason and humanity to indigenous nomadic savagery. “Indians” were no longer rightful owners; they were now merely occupiers of space.³⁴

Despite the transition from civilized, property-owning, contract-signing “Indians” to barbaric, nomadic, space-occupying “Indians,” the thread of land dispossession is woven throughout. This land dispossession is linked to intersecting notions of whiteness, individuality, and property ownership. When Wendy Brown references Locke and Schmitt to argue that sovereignty is born from enclosure, she is also referring to the historical fact that not only is jurisdiction over land a prerequisite for political power, but also that jurisdiction over land occurs through the relationships between an individual and the state. If for Locke the essence of political power is its jurisdiction over the land, and land is understood as private property, then when Locke argues that “every man has a ‘property’ in his own ‘person,’” he is claiming a sovereign subject that is defined in relation to property. In this act, Locke is “not only defining ‘property’ but also defining *personhood*.”³⁵ It is the state, however, that mediates the relationship between the owner and the owned: the state maintains this relational aspect of property by “[protecting] one’s right to own something by ensuring no one else does.”³⁶ This interaction is not an ahistorical or unmarked relationship between state and individual; as Cheryl Harris has argued, since the inception of property rights in the United States, it has been the relationship between race and property that racial and economic domination has been monopolized by whiteness.³⁷ This domination has occurred through the fact that “whiteness and property share a common premise – a conceptual nucleus – of a right to exclude.”³⁸ Thus, the acquisition of indigenous land by British and American settlers occurred through a dual mechanism of exclusion: on the one hand,

³⁴ Saldaña-Portillo, 63.

³⁵ Lisa Marie Cacho, *Social Death: Racialized Rightlessness and the Criminalization of the Unprotected* (New York: New York University Press, 2012), 23, drawing on Grace Kyungwon Hong.

³⁶ Cacho, *Social Death*, quoting Hong.

³⁷ Cheryl I. Harris, “Whiteness as Property,” *Harvard Law Review* 106, no. 8 (1993): 1716.

³⁸ Harris, “Whiteness as Property,” 1714.

indigenous people were excluded from rightful property ownership (except in the instances that they sold away their rightful ownership), and on the other, they were excluded from the racial category of whiteness.

As this section has outlined, the Mexican racial geography was one premised on inclusion. In reality, this inclusion relied on the denigration of indigenous worldviews and spatial practices, but nonetheless, the logic of Mexico's racial composition relied on the incorporation of indigenous identity in the formation of the Mexican subject. On the other hand, the racial geography of the United States was premised on an exclusionary principle. Even as indigenous people were included in property relations, it was only in the service of land transfers away from "Indians" and to Anglo settlers that such an inclusion was made possible. Due to the intersection of whiteness and property in the United States, the subject formation of "Americans" was broadly exclusionary and extended only to white men. In the borderlands region, these two racial geographies have always interacted, and at moments have collided profoundly. This collision is most evident in the annexation of Northern Mexico into the Southwestern United States following the Mexican-American War, 1846-1848.

COLLIDING GEOGRAPHIES, COLLUDING SOVEREIGNTIES: RACE, SPACE, AND INDIGENEITY IN THE TREATY OF GUADALUPE HIDALGO

The collision between the two distinct racial geographies, outlined above, occurred through the terms set by the treaty that ended the Mexican-American War, the Treaty of Guadalupe Hidalgo. Once again, the dialectical framework of potentiality emerged, this time as a mediating principle for inclusion into the United States. The process of inclusion/exclusion of mestizo, indigenous, and Afro-mestizo subjects into the U.S. nation occurred in the clash between the racial geographies of the United States and that of Mexico.³⁹ The collision is most visible in the fact that the Treaty of Guadalupe Hidalgo sought to include annexed Mexicans into a racial geography premised on exclusion. Article 8 states that regardless of their citizenship at the moment the treaty is signed or in the years to come,

³⁹ Saldaña-Portillo, *Indian Given*, 108-9, 133-34.

annexed Mexicans are allowed to retain their property in the annexed territories, free of charge. Article 9 gives the option to annexed Mexicans to become U.S. citizens, to enjoy “all the rights of the citizens of the United States according to the principles of the Constitution,” assuming that they “shall not preserve the character of citizens of the Mexican Republic.”⁴⁰ Referring back to Harris’ argument about the interconnection between whiteness and property, and to the Naturalization Act of 1790, which restricted citizenship to “any alien, being a free white person,” the act of extending property rights and citizenship to Mexican men meant simultaneously racializing them as white. However, the clear issue arose: Mexicans did not look white. Due to the exclusionary racial logic of the United States, the written words of the treaty that sought to extend “the enjoyment of all the rights of the citizens of the United States according to the principles of the constitution,” were ultimately bound to fail. The treaty sought to extend the privileges of Anglo whiteness to those who in Mexico, when positioned relationally to indigenous or Afro-mestizo people, could mobilize the category of whiteness in their favor, but when positioned relationally to white Anglo settlers in the U.S. Southwest, their claims to whiteness fell short. This was because, in the racialized bodies, lives, and “character” of annexed Mexicans, Anglos saw a “trace of the indio bárbaro...ever present in Mexicans’ indeterminate racial embodiment.”⁴¹

The trace of the “*indio bárbaro*” was present elsewhere in the Treaty as well. While articles 8 and 9 of the Treaty are the center of historians focus for the rights they purportedly grant to annexed

⁴⁰ Quoted in Saldaña-Portillo, 134–35. Saldaña-Portillo draws here on Early American scholar David Kazanjian. While many U.S. historians and Chicana/o scholars agree that the treaty failed to grant the rights it promised to Mexicans, Kazanjian extends this discussion by asking what it would mean if the U.S. had *succeeded* in granting the rights it promised. He centers this phrase – “shall not preserve the character of citizens of the Mexican Republic” -- in his analysis, and concludes that to become a U.S. citizen, with all the purported rights that includes, would require “a negation, a becoming un-preserved, disposed of, lost, wasted” if the Treaty of Guadalupe Hidalgo was fulfilled as promised. David Kazanjian, *The Colonizing Trick : National Culture and Imperial Citizenship in Early America* (Minneapolis : University of Minnesota Press, 2003), 207.

⁴¹ Saldaña-Portillo, *Indian Given*, 155.

Mexicans,⁴² article 11 shows the cost at which rights were granted in the two earlier articles:

Considering that a great part of the territories, which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive control for the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme, it is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States whensoever this may be necessary; and that when they cannot be prevented, they shall be punished by the said Government, and satisfaction for the same shall be exacted all in the same way, and with equal diligence and energy, as if the same incursions were mediated or committed within its own territory, against its own citizens.⁴³

As in Articles 8 and 9, annexed Mexicans are posited to be legally equal to white U.S. citizens, just as indigenous incursions into Mexican territory are to be legally treated as if it were an incursion into the United States. Legal punishment for such incursions – against the state of Mexico or “proper” Mexicans in the territories annexed by the U.S. – “shall be exacted in the same way” “as if” it were “against its own citizens” – that is, with the full might of the U.S. legal apparatus. Despite the contradictory racial logics referenced above, here we see how Mexicans and Americans alike are imagined to be individual liberal subjects, deserving of state protection. But such a similarity of character, despite racial difference, can only be achieved as it is juxtaposed to the “savage tribes” who simply “occupy” the land that is now the United States.

⁴² Saldaña-Portillo, 134. See footnote 40 for what it would mean to actually grant these rights to Mexicans. This claim – that historians center on articles 8 and 9 for the rights they purported grant to annexed Mexicans – is drawn from Christopher David Ruiz Cameron, who offers a legal perspective of the Treaty of Guadalupe Hidalgo. Ruiz Cameron outlines the three primary ways in which historians have ascribed meaning to the document, which he classifies as traditionalist, revisionist, and reclamationist. He argues that legal scholarship on the Treaty is dwarfed in comparison to historical scholarship, which has led to an oversimplification in our understanding of the ways in which the Treaty has been consequently legally adjudicated. Christopher David Ruiz Cameron, “One Hundred Fifty Years of Solitude: Reflections on the End of the History Academy’s Dominance of Scholarship on the Treaty of Guadalupe Hidalgo,” *Bilingual Review / La Revista Bilingüe* 25, no. 1 (2000): 1–2.

⁴³ Quoted in Saldaña-Portillo, 136.

It is here that the collusion between the Mexican and U.S. racial logics emerges most prominently. Gone are the days of a fluctuating and transient indigenous identity, able to be assimilated in exchange for forsaking indigenous spatial practices and sovereignty. Now the “*indio bárbaro*” is concretely cast outside of both the United States and Mexico. The “savage tribes” pose a threat to the territorial cohesion of both nations in their racial character and spatial practice. In the Treaty’s representation of space, it is indigeneity that violates the sovereignty of *both* nations.⁴⁴ The Treaty of Guadalupe Hidalgo – which sets the terms for the collision of the two racial geographies – essentialized indigenous racial character into the solidified category of “savage tribes” and negated any claim to territorial sovereignty by casting indigenous populations as simply “occupiers” of space that is now to be the United States of America.⁴⁵ (Recall here the aforementioned transition from contract to treaty for how indigenous land was to be acquired by the U.S. government: it was by imagining indigenous people as simply “occupiers of space” as opposed to rightful owners that allowed the treaty form to imbue a nomadic savagery onto Native peoples – a legacy that flashes up quite forcefully in the Treaty of Guadalupe Hidalgo.)

The vision of sovereignty presented by the Treaty of Guadalupe Hidalgo affirms Wendy Brown’s claim that “sovereignty does not simply unify or repress its subjects, but is rather both generated by and generative of these subjects.”⁴⁶ The process of subject creation happens through specific racialized identity categories, best understood through the phrase “beyond the pale.” A pale refers to a wooden fence stake, and its historical and political meaning comes from the English colonization of Ireland, where “The Pale” referenced both the line between civilized and uncivilized, and the colonial territory itself.⁴⁷ However, “beyond the pale” is not simply a geographic marker distinguishing the civilized from the uncivilized; it is also “where the brutishness of the civilized is therefore permitted, where violence may be freely and legitimately exercised.”⁴⁸ Inherent to the phrase “beyond the pale,” then, is both a justification of the

⁴⁴ Saldaña-Portillo, 138.

⁴⁵ Saldaña-Portillo, 108-9, 136-37, 155.

⁴⁶ Brown, *Walled States*, 52.

⁴⁷ Brown, 45.

⁴⁸ Brown, 45-46.

originary violence of colonization, as well as justification of the process of continual colonial encroachment, settlement, dispossession, and violence.⁴⁹

While Brown's elaboration of the phrase "beyond the pale" underscores the colonial engineering of land, "the pale" constructed through the logic of the Treaty of Guadalupe Hidalgo hinges not solely on geography, but also on the racialized identity of the "savage tribes." The liberal subjectivities of both the United States and Mexico were constituted by what was "beyond the pale," but the pale was staked into a *racialized* geography, not simply unmarked land. When Saldaña-Portillo writes "that Mexican and U.S. national geographies... are the effect of visualizing indios and Indians in landscape,"⁵⁰ she is speaking to a specific mechanism of subject creation. Such a mechanism happens *vis-a-vis* geography's disciplinary power: depending upon the interests of the English and Spanish colonists, and what they desired to see in/on the landscape, varying spatial practices and representations emerged, and functioned as a way to both discipline what we see and discipline us into "seeing (and knowing) mapped space as racialized place."⁵¹

In the Treaty of Guadalupe Hidalgo, rather than constituting their subjectivities by what was beyond a physical border, the sovereignty of each nation – and thus the subject formations within each nation – was constituted through the relationship between the illiberal "savage tribes" and the land they were "occupying." With the newly constructed pale of the "*indio bárbaro*," colonial conquest was justified in the past and present. Racialized violence was now deemed legitimate not beyond a geographic boundary, but beyond a racialized imaginary that was constituted at the intersection of indigeneity and geography. This racialized imaginary is mobilized as "an unconscious racial hermeneutic in the business of statecraft for Mexico and the United States," repeatedly grafted onto racialized bodies as a tool for dispossession and violence.⁵² When Roberto Hernández writes that "Indian-hating on the frontier is passed through a recurrent colonial

⁴⁹ Brown, 46.

⁵⁰ Saldaña-Portillo, *Indian Given*, 17.

⁵¹ Saldaña-Portillo, *Indian Given*, 18; María Josefina Saldaña-Portillo "Persistent Geography of the Indio Bárbaro," accessed November 21, 2019, <https://www.youtube.com/watch?v=NEsm1L13KjY>.

⁵² Saldaña-Portillo, *Indian Given*, 235.

logic onto its heir in the form of Mexican-hating on the border,”⁵³ he is making a similar claim, not of the equivalence between colonial violence of the past and present, but of the ways in which colonial violences manifest across time and space. It is important to note, then, that the figure of the “*indio bárbaro*” is not tied to the racialized indigenous body, nor does it refer to any specific historical actor. Rather, viewed as a tool of statecraft, it is deployed across time and space in the service of imperial expansion, racial violence, and exploitation of indigenous and marginalized people.⁵⁴ Thus, it was through a “recurrent colonial logic,” visible through the reliance on the figure of the “*indio bárbaro*,” that in the summer of 1915 radical anarchism, foreign “other,” and Mexican racial identity were conflated and affixed to all people of color in South Texas, regardless of their politics or nationality.⁵⁵ To fully understand the context from which the Plan of San Diego emerged, it is first important to explore briefly the local political, social, and economic landscape of the area from which the Plan developed, and which was most directly impacted by the raids that ensued.

TECHNOLOGICAL UPHEAVAL: THE CHANGING LANDSCAPE OF SOUTHERN TEXAS, CIRCA 1900

The Plan of San Diego was ostensibly written in the small South Texas town of San Diego, which is located about 100 miles north of the current border and 100 miles south of San Antonio. Thus, an examination of the context of southern Texas is important to an examination of the plan itself. James Sandos, Plan of San Diego historian, has characterized the social environment of South Texas pre-1900 as relatively harmonious. His argument is that this period of relative harmony contrasts with the post-1900 boom in agriculture, Anglo and Mexican immigration, and increased racial animosity by pointing to the ways in which industrialization of farming and transportation destroyed the previously established social fabric of the Rio Grande Valley. “Harmony,” however, should raise red flags, as it is often imagined and desired by those in power as a way to maintain power without “rebellious” or “disruptive” contestation.

⁵³ Roberto Hernández, *Coloniality of the U.S./Mexico Border: Power, Violence, and the Decolonial Imperative* (Tucson: University of Arizona Press, 2018), 30.

⁵⁴ Saldaña-Portillo, *Indian Given*, 235.

⁵⁵ Gómez-Quíñones, “Plan de San Diego Reviewed,” 125.

Sandos' point in his characterization of South Texas pre-1900 as harmonious is unclear. He seems to accept *ipso facto* that the harmony of South Texas was positive, held together through racial intermarriage and "the Roman Catholic and Hispanic convention of *compadrazago*, the fictive kinship of godparents,"⁵⁶ that led an integrated, and presumably peaceful, social fabric.

In reality, the social fabric was anything but peaceful. Since the incorporation of Texas into the United States with the Treaty of Guadalupe Hidalgo, Mexicans and Mexican-Americans faced considerable threat of racist violence. As William Carrigan and Clive Webb have documented, "between 1848 and 1879 Mexicans were lynched at a rate of 473 per 100,000 of population" – over ten times the rate of African American lynchings in the South.⁵⁷ Statistics alone cannot even begin to account for the terror and violence afflicted by lynch mobs, and simple statistical comparatives do violence to the reality of racism and racial violence at every level of American life. Much of this racist violence can be traced to the role of the Texas Rangers. Rangers were essentially organized vigilante lynch mobs, who had state backing, but were often looked down upon by the Army for their violent and indiscriminate attacks – a reality that will be explored further in the subsequent pages. The point stands, however, that people of Mexican ancestry in the Southwest faced significant threats to their life. As opposed to Sandos' assertion that racial violence worsened after the turn of the century, Carrigan and Webb point to the increase of Mexican migration to the region beginning in the 1880s as an explanation for the *decline* in the instances of racist lynchings. Solidarity in community, it can be imagined, is the reason for such a decline. Sandos' characterization of an integrated and peaceful social fabric, then, must be read critically.

Geography and development played a central role in the racial dynamics of South Texas. Defined as "xeric" by geographers, the South Texas landscape lacks moisture and has high rates of evaporation. Because of this, agriculture is virtually impossible without sufficient irrigation, which meant that ranching was the primary method of land

⁵⁶ Sandos, *Rebellion in the Borderlands*, 64, 71.

⁵⁷ William D. Carrigan and Clive Webb, "The Lynching of Persons of Mexican Origin or Descent in the United States, 1848 to 1928," *Journal of Social History* 37, no. 2 (2003): 414.

use throughout the nineteenth century.⁵⁸ It was primarily Anglo cattle ranchers who gained economic power, while Mexican workers “generally [sic.] served as laborers, cowboys, assistant lawmen, and occasionally as stockmen.”⁵⁹ Thus even as the numerical equality in racial groups and the practices of *compadrazago* purportedly led to a harmonious social fabric, in these skewed labor dynamics it is clear that it would take far more than intermarrying to build a truly equitable community. Nonetheless, the contrast that Sandos draws between pre-1900 and post-1900 southern Texas is valuable when we look at the technological changes that occurred around the turn of the century. In 1904, two major technological developments collided: the arrival of the railroad and crop irrigation, which worsened the already-precarious racial disparities and tensions of the pre-1900 era.⁶⁰ The first European irrigation system was brought to the valley in 1876. These early irrigation systems were built along the Rio Grande/Rio Bravo⁶¹ and used pumps and lifts to gather and distribute water. Due to regular flooding, though, these pumps were destroyed often and were rarely successful. 1904, however, marked the arrival of the railroad to the Rio Grande Valley, suddenly making investments in irrigation more profitable. The risks themselves were no less, but the potential markets for delivering agricultural goods that opened up with the arrival of the railroad quickly overrode fears of flooding, which in turn skyrocketed land values.⁶² The railroad also meant a massive influx of Anglos from the East coast looking for cheap and potentially profitable land, while there was an equal influx from the south around the same time of Mexicans who had been displaced by the revolution.⁶³ Railroad expansion complemented developments in irrigation technology, making each more profitable than either would be alone. The ways in which these two technological developments mapped across the South Texas landscape had profound effects on the

⁵⁸ Sandos, *Rebellion in the Borderlands*, 63.

⁵⁹ Sandos, 64.

⁶⁰ Sandos, 64–65.

⁶¹ These two names refer to the same river. Rio Bravo was the (original) Mexican name of the river, while Rio Grande was the U.S. name. After the U.S. annexation of what is now the U.S. Southwest, Rio Grande became the official name of the river. Sandos, 63.

⁶² Sandos, 66.

⁶³ Sandos, 65–66, 71.

social, economic, and political lives of all who lived there and formed a central backdrop to the events that transpired eleven years later.

SOVEREIGN CONTRADICTIONS: MEXICAN ANARCHISM AND THE CRITIQUE OF LIBERALISM

By 1910, Mexico had suffered from in a thirty-one year reign of dictator Porfirio Díaz. In that year, following Díaz's multiple calls for the democratization of Mexico, Francisco Madero announced his candidacy for president. Madero was the son of wealthy landowners, and a liberal reformer who drew on the legacy of liberal reformism of the 1850s and 1860s and the 1857 Constitution. He was promptly arrested, and Díaz declared himself the duly elected president. In response, Madero called for a political revolt, which was ultimately a failure, but which kindled revolutionary hope throughout the country. In the subsequent months, the various disaffected factions of the nation coalesced under Madero to oust Díaz, which occurred in early 1911. Soon after Madero declared himself president, his military commander Victoriano Huerta seized power, and Madero was killed, presumably at the order of Huerta. Two other significant factions of the revolution – led by Venustiano Carranza and Pancho Villa – broke with Huerta over the assassination of Madero. Carranza, who would become the president of México in 1917, opposed Porfirio Díaz, but only sought mild political reform. Villa, along with Emiliano Zapata, both advocated complete social and political reform and land distribution.⁶⁴

While Ricardo Flores Magón began as a liberal reformer and close friend of Madero, by the time the revolution began, he had broken with liberal reform efforts and was advocating, along with his *Partido Liberal Mexicano* (Mexican Liberal Party, or PLM), a full-fledged anarchist revolution.⁶⁵ Through the revolutionary publication, *Regeneración*, Flores Magón and the PLM launched an assault on what Flores Magón referred to as the “three-headed hydra”: capitalism, the

⁶⁴ This is a quite brief sketch of the emergence of the Mexican Revolution. For more information on the Mexican Revolution see Ward S. Albro, *Always a Rebel*; Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S.-Mexico Borderlands* (New Haven: Yale University Press, 2006); Sandos, *Rebellion in the Borderlands*; Sandos, “The Plan of San Diego,” 6.

⁶⁵ Gómez-Quíñones, 6, 27.

state, and the clergy.⁶⁶ These three ills critiqued by Flores Magón coalesce under a more benign-faced – though equally insidious – system: liberal sovereignty. At the root of liberal sovereignty is the state formation, its relationship to privately owned land (through capitalism), and the theological element that ascribes power to private property and state sovereignty. The emergence of this sacred element of property is explained by Jost Trier when he writes, “The enclosure gave birth to the shrine by removing it from the ordinary, placing it under its own laws, and entrusting it to the divine.”⁶⁷ When Flores Magón wrote in the “Manifesto to the Workers of the World,” in 1911, that the PLM is for all those who “do not recognize the ‘sacred rights of private property,’”⁶⁸ he made a similar claim to the theological character prescribed to land enclosure, as well as a direct contestation of it.⁶⁹

In critiquing the “three-headed hydra” of liberal sovereignty, the PLM platform is also speaking to the contradiction inherent to its political form. The fundamental contradiction of sovereignty lies in the discrepancy between the assumption of liberal democracy that sovereignty is held by the people and for the people on the one hand, and the classical features of sovereignty – “power that is not only foundational and unimpeachable, but enduring and invisible, magisterial and awe-inducing, decisive and suprallegal” – on the other. Rule by the *demos* as it is posited in liberal democratic thought is irreconcilable with rule by the sovereign state; hence the distinction made by Locke between legislative power (popular sovereignty) and prerogative power (state sovereignty).⁷⁰ This contradiction leads Wendy Brown to conclude that “the ‘rule of the people’ becomes at best a discontinuous, episodic, and subordinate *practice*, rather than

⁶⁶ Magón, *Dreams of Freedom*, 18.

⁶⁷ Quoted in Brown, *Walled States*, 43.

⁶⁸ Magón, *Dreams of Freedom*, 135.

⁶⁹ The critique of private property lies at the foundation of anarchist thought. Much of Flores Magón’s thought relied on the theoretical contributions to the anarchist field made by one of the movements founders, Pierre-Joseph Proudhon. Proudhon posited the question – *What is Property?* – in his 1840 publication, which would become the central question not just of the anarchist movement, but of all those movements concerned with land redistribution and land justice. Proudhon’s answer, with which Flores Magón certainly agreed, cut to the root of the entire colonial and capitalist project: “Property is theft.” Sandos, *Rebellion in the Borderlands*, 23.

⁷⁰ Brown, *Walled States*, 49–50.

an actual sovereign power.”⁷¹ To address tension, Liberalism seeks to split the autonomy of the people from the sovereignty of the state, but in so doing exposes the “rule of the people” as a hoax.⁷²

While Liberalism splits the “legislative power” and “prerogative power” in an attempt to hold both (but in reality exposing its fundamental incoherence), the anarchist critique of Liberalism also splits these two theories of sovereign power, but towards different ends. Whether by Liberalism or anarchism, the split between popular sovereignty and state sovereignty shows the contradictions of liberal democracy, but while Liberalism evades this contradiction, anarchism embraces it. In his critique of the state, Flores Magón and the PLM, with the Plan of San Diego following suit, reject state sovereignty and seek to realize a true popular sovereignty. As Juan Gomez-Quiñones writes, “[Flores Magón] stressed that sovereignty resided in the people, and that there was nothing above it.”⁷³ As opposed to traditional anarchist thought, which centered sovereignty of the person over sovereignty of the state, the PLM approach centered sovereignty of the people: it embraced the collectivity of the *demos* while simultaneously rejecting individualist anarchism and Liberal collectivism.⁷⁴ This anarchist collectivism was especially clear in the fight for land. Whereas the reform elements of the Mexican Revolution advocated land reform, and radical elements of the Revolution advocated a state-sponsored land redistribution program, Flores Magón called on the oppressed classes to take land for themselves: “There must be EXPROPRIATION. The well-being of all – the ends; expropriation – the means.”⁷⁵ Here Flores Magón rejects the balancing act of legislative and prerogative power, which would persist as a problematic even in radical land redistribution programs, precisely because of the role the state would play in such a program. Instead, Flores Magón calls on the people to seize what is rightfully theirs, and, in this move, invokes a central distinction between Liberalism and anarchism: the need for a true *demos*.

⁷¹ Brown, 51.

⁷² Brown, 53.

⁷³ Gómez-Quiñones, *Sembradores*, 5.

⁷⁴ Gómez-Quiñones, 13.

⁷⁵ Sandos, *Rebellion in the Borderlands*, 58. Flores Magón’s words echo exactly the sentiment that was originally expressed by Russian anarchist Peter Kropotkin in his book, *The Conquest of Bread*.

Flores Magón's anarchist articulation was a threat to the sovereignty of both the United States and Mexico, as both were premised on the contradictory liberal sovereignty outlined above. Both Venustiano Carranza (the leader of the Constitutionalist Army of the Mexican Revolution, which was eventually triumphant) and U.S. President Woodrow Wilson recognized this threat and had mutual fears that the PLM and *Regeneración* would sully the relationship between them. Despite their tense relationship (elaborated further below), prominent anarchists Emma Goldman and Alexander Berkman decried Wilson as a lackey of Carranza, just as Flores Magón asserted that Carranza was merely a "lackey of Wilson and the bandits of Wall Street."⁷⁶ These calls came in response to a crack-down on radical anarchist activity on both sides of the border, and illuminate the threat posed by the anarchist exposition of the incoherence of liberal sovereignty felt by both sovereign nations.

"EVERY NORTH AMERICAN SHALL BE PUT TO DEATH": THE OPPOSITIONAL LOGICS OF THE PLAN OF SAN DIEGO

Drawing on the momentum of the Mexican Revolution, the Plan of San Diego sought to seize land that was deemed stolen on two counts: from Mexico by the United States, and from Mexicans and Mexican-Americans by Anglos. The Plan made a direct reference to the 1846-1848 Mexican American War, as it sought to take back land that had been taken from Mexico "in a most perfidious manner by North American imperialism."⁷⁷ Built into this claim was a reference to the Treaty of Guadalupe Hidalgo, which mediated the passage of Mexican land to the United States. The Treaty proposed a universalized liberal citizenship in which whitened (mestizo), "civilized," property-owning Mexican men were placed on the same level as Anglo-American men, all at the expense of the exclusion of indigenous people, but also at the expense of Afro-Mexicans or other Mexican's who were too dark to acquiesce into the exclusionary Anglo racial logic.⁷⁸ While the Plan spoke directly to the U.S. annexation of Northern Mexico, it also spoke to the failure of the United States to live up to the promises made in articles 8 and 9 of the Treaty, and as such,

⁷⁶ Magón, *Dreams of Freedom*, 92, 95.

⁷⁷ Gómez-Quifiones, "Plan de San Diego Reviewed," 129.

⁷⁸ Saldaña-Portillo, *Indian Given*, 137.

shaped a racial vision in direct opposition to that proposed by the Treaty. As opposed to the Treaty, which purportedly accepts as American all those Mexicans who “shall not preserve the character of citizens of the Mexican Republic,” the Plan accepts as its adherents all those who buy into the Plan. Entry into the U.S nation in the case of the Treaty, and entry into the to-be-formed republic in the case of the Plan of San Diego, are both determined based on allegiance to a certain “character,” orientation, and set of values. On the flip side, the exceptions of the Treaty are indigenous and darker-skinned people, while the exceptions of the Plan are Anglos – “Every North America over sixteen years of age shall be put to death” – as well as anyone who does not support the Plan – “on no account shall the traitors to our race be spared or accepted.” In both the Treaty and the Plan, acceptance is determined in two regards: racially and ideologically. The Plan of San Diego, though, demands the inversion of race and ideology demanded by the Treaty. Thus, in addition to rejecting the liberal notion of sovereignty of the United States in exchange for a sovereignty of the *demos*, the Plan of San Diego also explicitly rejects the racial and ideological pretext of the Treaty of Guadalupe Hidalgo in exchange for an interracial republic – but without white Anglos. In other words, while the Treaty excludes those who are too dark or those whose territorial practices contradict those of liberalism, the Plan excludes those who are too light or who align themselves with liberal values of the state and private property. While positioning itself in opposition to the racial logic of the Treaty of Guadalupe Hidalgo and the white supremacist liberal sovereignty of the United States, the Plan also emerged in the context of the material changes in the South Texas landscape.

ANGLO ANXIETY, MEXICAN CRIMINALITY; OR, HOW IT ALL WENT DOWN

On February 20, 1915, the day the uprising was originally set to begin, nothing of the sort had occurred as of yet. Instead, on that day, the Revolutionary Congress (of the Plan of San Diego, who was vested with command of military operations) revised the Plan to more tactically and ideologically specific ends. Now the Plan would begin in Texas and spread outwards. The anarchist leanings of the Plan became quite explicit in this revised copy, calling for complete “SOCIAL REVOLUTION,” the return of cultivated lands to the

“proletarians,” complete communalism of property and tools, and a negation of distinct nations.⁷⁹ The federal government of the United States had yet to take the plan seriously, and even as an original signatory of the Plan, Basilio Ramos, was indicted for conspiring to steal five U.S. states, the judge proclaimed that he “ought to be tried for lunacy, not conspiracy against the United States.”⁸⁰

In mid-March, Texas Governor James Ferguson petitioned President Woodrow Wilson for \$30,000 to add thirty more men to the state ranger force in the face of what he described as an “almost reign of terror.” Major General of the Southern Department of the Army, Frederick Funston, thought this request absurd and claimed that Ferguson wanted the federal Army to solve what he saw as simply a Texas problem. President Wilson stated that the requested funds were not available, but agreed to change federal policy so that after March 5, the Southern Department would view raiding groups “as belligerents entering American territory for unlawful acts,” and directed Funston to work with Ferguson to allocate resources accordingly.⁸¹ This decision by Wilson would have profound consequences: now any raiders who attacked Anglo property would be charged with not just a violation against (the “sacred” rights of) private property, but would be cast as a foreign operative violating American sovereignty.

On July 4, 1915, the first widely accepted (in consequent scholarship, not by officials at the time) Plan of San Diego-related incident occurred. On that day, a band of forty Mexican raiders crossed the Rio Grande into Texas, killed two Anglo men on a ranch near Lyford, and continued to travel throughout South Texas for two weeks, killing another eighteen-year-old Anglo boy en route, and all the while evading capture.⁸² Throughout July and into early August, raids became an almost daily occurrence, targeting ranches, county stores, and railroad bridges, taking firearms, and killing Anglos.⁸³ The federal government had yet to associate these raids with the revolutionary Plan of San Diego. On August 7, 1915, Luis De la Rosa, the First Chief of military operations of the Plan of San Diego, led a

⁷⁹ Sandos, *Rebellion in the Borderlands*, 83.

⁸⁰ Quoted in Sandos, 85.

⁸¹ Sandos, 86.

⁸² Sandos, 87; Cumberland, “Border Raids,” 291.

⁸³ Cumberland, “Border Raids,” 291–92.

group of forty armed rebels in an attack on the King Ranch, which was “one of the oldest symbols of Anglo power in South Texas.” While described as a “raid” in the press and consequent scholarship, these revolutionaries did not understand it as such. This attack was an act of war to reclaim land that was stolen from Mexico.⁸⁴ Following this raid, a posse of Texas Rangers gathered the bodies of the raiders that had been killed, tied their legs to saddles of the Rangers’ horses, and dragged them through the brush. They stopped at one point and captured a picture. This picture was then printed onto thousands of postcards and sent into northern Mexico “as a warning to future raiders.” Unsurprisingly, this provoked outrage rather than the desired fear.⁸⁵

In the aftermath of this raid, on August 10, the 12th Cavalry patrol captured a number of documents and banners in a skirmish with raiders that indicated Mexico as the source of the raid, and an allegiance of the raiders to the Plan of San Diego.⁸⁶ This led General Funston to conclude that General Emiliano Nafarrate, commander of the Carranza forces at Matamoros, Mexico, was behind the raids, and that any further violence between U.S. Army forces and raiders could lead the U.S. and Mexico to war.⁸⁷ Regardless of Carranza’s actual relation to the raids, the position taken by Funston put Carranza in an advantageous position. Woodrow Wilson had opted for a policy of impartiality towards competing factions of the Mexican Revolution, but the more disrupting raids became to the United States, the more power Carranza had in his claim that without legitimate reign over Mexico, there was little he could do to stop them.⁸⁸

Raids continued over the next two months, but the treatment of Mexicans and Mexican-Americans in South Texas was inspired much more by Anglo anxiety and racism than by actual actions by people of Mexican descent. This anxiety arose primarily from the threat Anglo Americans felt to their way of life. If the technological developments of the railroad and crop irrigation in South Texas, and their social and economic consequences, were seen by Anglos as progress – as we can assume they were – the emergence of the raids associated with the

⁸⁴ Sandos, *Rebellion in the Borderlands*, 89–90.

⁸⁵ Sandos, 91.

⁸⁶ Sandos, 91–92; Cumberland, “Border Raids,” 294.

⁸⁷ Cumberland, 294–95.

⁸⁸ Cumberland, 297–98.

Plan of San Diego in 1915 demonstrates both the weaknesses of that very same progress, and the fear of its demise. It was no accident that raids deliberately targeted the two central developments that transformed the South Texas landscape: ranches and railroads. These raids instilled a profound geographic anxiety in the hearts of minds of Anglo residents of the borderlands – one heavily inflected by race, gender, economy, and technology. It was not change itself that Anglos feared – indeed they were the ones who had spurred the initial massive disruptions in the social fabric of the area – rather it was the internalization of notions of safety, prosperity, sovereignty, and a sense of ‘Americanness’ that struck such a deep chord in the hearts of the Anglo populace. This fear was rooted in the direct and violent rejection of liberal sovereignty, private property, and white supremacy – three central tenets of “American” identity. In other words, Anglo anxiety was in response to the threat against the very forces that created Anglo-American subjectivity. It was not just property that was at stake, but an entire way of living in and interacting with the world.

In the summer months of 1915, this Anglo anxiety contributed to the grafting together of Mexican identity, radical activity, and the imagined foreign enemy in the minds of the Anglo populace.⁸⁹ As General Funston demanded ever more troops from the War Department, he referenced the threats posed by “a general uprising of the Latin population or on an invasion from Mexico,” implicitly conflating these two threats as one in the same as far as law enforcement was concerned.⁹⁰ From the civilian perspective, any man of “Latin” appearance was assumed to be a spy or raider, regardless of their actual political affiliation. As early as July, two Mexican horsemen were shot and killed by an Anglo rancher on the baseless presumption that they were raiders,⁹¹ and “despite the opinion of many observers that no more than ten percent of the Mexican and Tejano population had committed a disloyal act,” unsubstantiated racist violence continued.⁹² In this context, people of Mexican descent were not simply stereotyped for criminal activity, but were *criminalized*. As Lisa Marie Cacho explains, “to be stereotyped as a

⁸⁹ Gómez-Quíñones, “Plan de San Diego Reviewed,” 125.

⁹⁰ Cumberland, “Border Raids,” 296.

⁹¹ Cumberland, 300.

⁹² Sandos, *Rebellion in the Borderlands*, 98.

criminal is to be misrecognized as someone who committed a crime, but to be criminalized is to be prevented from being law-abiding.”⁹³ An initial read of this situation points towards the stereotyping of Mexicans in South Texas: they were targeted by Rangers and Anglo civilians due to a misrecognition of their intentions. Referring back to the racial logic of the Treaty of Guadalupe Hidalgo, Mexicans in the annexed territories (including Texas) were racialized as white and thus had legal recourse to violence inflicted upon them. Cacho understands the difference between criminalized and stereotyped populations as whether or not eventual inclusion into the law is possible, and according to the Treaty of Guadalupe Hidalgo, Mexicans were indeed included in American law precisely because of their whiteness, relationship to property, and citizenship. For example, despite the fact that the Plan of San Diego accused “white skinned savages” of segregating train cars and excluding Mexicans, Mexican and Tejano citizens admitted to first-class cars – a remnant of the Treaty’s racial inclusion of Mexican men. Those excluded were Black men and all women.⁹⁴ However, the reality of their criminalization (as opposed to stereotyping) becomes apparent in the indeterminate presence of the “*indio bárbaro*,” ever-present in Mexican’s racial embodiment.⁹⁵ According to the Treaty, the “savage tribes” of the annexed territory were concretely cast outside of both nations due to their spatial practices. While in Mexico, *mestizo* men would be read as

⁹³ Cacho makes a crucial distinction between these two terms that are often used interchangeably: stereotyping and criminalization. The distinction between stereotyping and criminalization is made apparent through Cacho’s discussion of “recognition.” Cacho posits that to be stereotyped is to be *mis*recognized as someone who has broken a law. Stereotypes are degrading, then, not because race is devalued, but “because they link race to other categories of devaluation, just as race is redeemed when linked to other properties of personhood universalized as socially valuable, such as heteronormativity or U.S. citizenship.” Thus, the injury done to someone who is stereotyped is fundamentally an injury related to misrecognition because it ensures the outrage of those who are misrecognized as *being* (not behaving like) a criminal. While stereotyping is a misrecognition, Cacho draws on cultural studies scholar Sara Ahmed to argue that criminalization requires a transparent *recognition* on behalf of the seer. Criminalization requires not an *inability* to see certain people as eligible for personhood, but a *refusal* to see them as such, as well as a refusal “to recognize the material histories, social relations, and structural conditions that criminalize populations of color and the impoverished places where they live.” Cacho, *Social Death*, 3-9.

⁹⁴ Sandos, *Rebellion in the Borderlands*, 101, 104.

⁹⁵ Saldaña-Portillo, *Indian Given*, 155.

legible citizens due to the “inclusive” racial logic of the Mexican nation, but in the United States, the exclusive racial logic of whiteness rendered Mexicans as “too Indian,” as “not white enough,” thus conflating Mexican identity with the “savage tribes,” constitutive to, yet excluded from, United States sovereignty and citizenship.

Such an exclusion is made apparent in the practice and history of the Texas Rangers. Sandos writes that “Ranger appeal to Americans lay in their mythic reputation for frontier defense and settler protection against marauding Indians and Mexicans.”⁹⁶ The “recurrent colonial logic,” posited above by Roberto Hernández, by which Indian-hating on the frontier is metamorphosed into Mexican-hating on the border, crystalizes in the dual “protection” offered by the Texas Rangers: “protection” from both “Indians” and Mexicans.⁹⁷ In South Texas, Rangers referred to Mexicans as “undesirables,” “surplus populations,” and “better dead than alive.” As one Anglo put it, “Whenever they [Rangers] arrest one of the greasers, they rarely disarm him, and allow him every opportunity to get away. I asked one the reason for this once and he replied, ‘They might try to start something if we leave their arms on them, and a dead Mexican is always a lot less trouble than a live one. We would have to kill ‘em in self defense.’”⁹⁸ Mexicans are not only stripped of their humanity, but in the articulations by Rangers, the racist violence against them is implicitly made to parallel similar violence against “marauding Indians.” Through Ranger violence, the figure of the “*indio bárbaro*” was deployed as a tool of statecraft through the criminalization of Mexicans, who were cast “beyond the pale” of the nation, and whose being and bodies (as opposed to their behavior) were deemed as legitimate targets of legal and extralegal violence.⁹⁹

Despite all the anxiety already felt by the Anglo populace, and the racist violence engendered by such anxiety, it was not until mid-October that the terror of Anglos and Mexicans in the Rio Grande Valley peaked. On the night of October 18, 1915, Luis de la Rosa and a

⁹⁶ Sandos, *Rebellion in the Borderlands*, 86. Roberto Hernández has an almost identical quote, referring to “the history and legacy of antagonism and violence since 1848 by “marauding Indians” and “Mexican bandits” on the one hand, and Texas Rangers, the Border Patrol, and other vigilant-like formations on the other.” Roberto Hernández, 49.

⁹⁷ Robeto Hernández, *Coloniality of the U-S/Mexico Border*, 30.

⁹⁸ Quoted in Sandos, *Rebellion in the Borderlands*, 91–92.

⁹⁹ Lisa Marie Cacho, *Social Death*, 6.

group of sixty followers mounted yet another concerted attack on a symbol of Anglo-initiated change in South Texas. The group vandalized railroad tracks eight miles north of Brownsville, Texas, and when the train hit that portion of the tracks, it was immediately derailed. The raiders boarded the train, killed two men, wounded three, and took the valuable possessions of all Anglo-American passengers.¹⁰⁰ In the morning following the raid, a posse of local law enforcement and Texas Rangers rounded up seven Mexican and Tejano men for questioning. None of them had been present at the raid. After interrogation, however, Captain H.L. Ransom of the Ranger force claimed four of the men as his prisoners, took them into the desert, and proceeded to shoot them to death – “leaving the bodies where they fell.”¹⁰¹ With no attention paid to the extra-judicial murder of innocent men, General Funston sent an immediate request to the War Department. He requested “twenty bloodhounds and fifty Apache Indians¹⁰² trained in scout work to assist the patrols in pursuing the fleeing raiders. He realized, he said, that the request would ‘doubtless startle [the] War Department,’ but he insisted that the prejudice against the use of bloodhounds was ill-founded and that the only way to stop the raids would be to make it almost certain death to be involved in such depredations.” Funston also requested that he be

¹⁰⁰ Cumberland, “Border Raids,” 303–4; Sandos, *Rebellion in the Borderlands*, 101–3.

¹⁰¹ Sandos, 103–4.

¹⁰² The history of Apache scouts in the U.S. Army dates from roughly 1871 to 1947. Apache scouts were used by the U.S. military in a number of campaigns, especially in the Apache Wars, the Navajo War, the Yavapai War, and other expeditions where knowledge of the territory and tracking practices were deemed necessary. While Funston’s request was denied in this case (which is elaborated below), Funston did oversee a regiment of Apache scouts just months later in the Pershing expedition to capture Pancho Villa. For more information about Apache scouts in the U.S. military, see Jennifer L. Jenkins, “Framing Race in the Arizona Borderlands: The Western Ways Apache Scouts and Sells Indian Rodeo Films,” *The Moving Image: The Journal of the Association of Moving Image Archivists* 14, no. 2 (2014): 68–95; Michael L. Tate, “From Scout to Doughboy: The National Debate over Integrating American Indians into the Military, 1891–1918,” *The Western Historical Quarterly* 17, no. 4 (1986): 417–37; Michael L. Tate, “‘Pershing’s Pets’: Apache Scouts in the Mexican Punitive Expedition of 1916,” *New Mexico Historical Review; Albuquerque, Etc.* 66, no. 1 (January 1, 1991): 49–71; Paul Joseph Barbone, “We Were Recruited From the Warriors of Many Famous Nations,” Cultural Preservation: U.S. Army Western Apache Scouts, 1871–1947,” PhD diss., University of Arizona, 2010. accessed November 25, 2019.

authorized to order “no quarter” for the enemy (meaning no mercy for the life of the enemy) – a practice already in use by local vigilante forces such as the Texas Rangers (exemplified in Captain Ransom’s execution of innocent Mexican men) that Funston had previously roundly rejected.¹⁰³ The War Department was not just startled; it was appalled. They feared that sending bloodhounds, Apache scouts, and authorizing “no quarter” would jeopardize the prestige of the Army and make them appear “barbaric.” Not unlike the British colonizers who desired the allure of “just practice” in their acquisition of indigenous lands, here the Army sought a prestigious, civilized, and “just” image even as they actively participated in violence against innocent Mexicans. Rather than viewing practices of “no quarter” as somehow distinct from federal policy, Funston’s request, and Captain Ransom’s extra-judicial execution, illuminate that such practices, in fact, go hand in hand. Civilian vigilantism, in this light, can be seen as a structurally embedded form of border violence, aiding in the protection and stabilization of national borders in a way that works in tandem with “prestigious” federal military practices.¹⁰⁴ Indeed, while refusing Funston’s request, The War Department agreed to send yet another regiment to Texas, at which point virtually every active-duty troop was stationed on the border.¹⁰⁵

Immediately following the raid, Wilson recognized Carranza as the *de facto* leader of Mexico.¹⁰⁶ In the wake of this decision, a community meeting was called by prominent Anglo men in the valley, and a petition was sent to Wilson pleading that he press Carranza to police the Mexican side of the border. If he refused or failed, then “U.S. troops should be permitted to cross into Mexico after marauders.”¹⁰⁷ Further proposals followed, the most consequential being the request for martial law in the area. Referring back to the discussion on liberal sovereignty, martial law entails the usurpation of “prerogative power” (state sovereignty) over “legislative power” (popular sovereignty). Wendy Brown writes, “a state of exception – the declaring of ‘martial law’ – is precisely the suspension of law in time and space. It eliminates the boundary between inside and outside,

¹⁰³ Cumberland, “Border Raids,” 304.

¹⁰⁴ Hernández, *Coloniality of the U-S/Mexico Border*, 28.

¹⁰⁵ Cumberland, “Border Raids,” 305.

¹⁰⁶ Sandos, *Rebellion in the Borderlands*, 107.

¹⁰⁷ Sandos, 108.

permitting the indifference to the law that is normally reserved for the outside to come inside.”¹⁰⁸ The fact that Anglos of the Rio Grande Valley requested martial law illuminates two interrelated realities: the first is that white citizens felt such an extreme sense of anxiety that they were willing to forego their political rights and liberties in exchange for a sense of security; and second, it shows that Anglos recognized the racialized nature of liberal sovereignty and martial law. They knew that while their liberties may be partially hampered, they would be the benefactors of such a suspension. When the law “normally reserved for the outside” was allowed to “come inside,” it would target those racialized populations from which white citizens sought protection. This is due to the fact that whiteness is not simply a racial trait, but an ideological signifier: “whiteness-as-ideology... signifies an endorsement of the tenets of liberalism and capitalism.”¹⁰⁹ In other words, even if the state were to suspend the political liberties of all citizens in the Rio Grande Valley, white citizens would automatically be read as possessing social value precisely because of their relationship to the state and to property, and would be spared in the violence justified by the law once it “came inside.”

As martial law makes the distinction between “outside” and “inside,” the violence against Mexicans in South Texas was justified not through the sweeping suspension of rights and liberties of a geographic area entailed by martial law, but through a racial maneuver that mapped Mexicans “outside” the racial composite of the nation. This is made apparent in a statement issued by Judge Sam Spears of San Benito, Texas:

All things considered, these rangers and officers have proceeded with commendable discrimination. Much more has been said in the press and otherwise, about killing innocent Mexicans, than is justified by the facts as I have them... In my judgement it is better by far to have made this kind of mistake than to have one of our own [Anglo] people killed... Every fair-minded man, when brought face to face with a condition where the criminal element is so powerful that the laws of the land cannot be enforced through the courts, must admit that mob violence is necessary to the saving of our civilization.¹¹⁰

¹⁰⁸ Brown, *Walled States*, 46.

¹⁰⁹ Joanna Swanger, “Cacho Commentary 2019,” Email to author. November 15, 2019, 5.

¹¹⁰ Quoted in Sandos, *Rebellion in the Borderlands*, 109.

The value of life is positioned comparatively by Judge Spears, where the murder of innocent Mexican's is deemed acceptable if it prevents the loss of Anglo life. In other words, the value of Anglo life is only legible in this instance in the devaluation of the lives of Mexicans.¹¹¹ Even without martial law, the legal boundary between outside and inside is suspended, and violence "reserved for the outside" is allowed to "come inside." In this case, rather than a suspension of legislative power, law is suspended through racially mapping Mexican's outside of legal protection, "beyond the pale." As elaborated earlier, what is "beyond the pale" "is where civilization ends, but it is also where the brutishness of the civilized is therefore permitted, where violence may be freely and legitimately exercised."¹¹² Just as pale of the nation was constructed around the figure of "savage tribes" through the Treaty of Guadalupe Hidalgo, Judge Spears constructed the pale here around the Plan of San Diego adherents, whom he referred to as "criminal elements." In his articulation, the racial line between Anglos and Mexicans is both where civilization ends – those "criminal elements" that are "so powerful" that they threaten the demise of "our civilization" – and also where the brutishness of the civilized is permitted – as Rangers are applauded for their "commendable discrimination" in the "killing of innocent Mexicans." Furthermore, in this case vigilantism is not only a constitutive piece of border violence, as posited earlier, but a constitutive piece of liberal sovereignty and Western civilization, for it is only through "mob violence" that "our civilization" can be saved.

South of the border, in a show of good faith after being recognized as the legitimate leader of Mexico, Carranza replaced General Nafarrate – who commanded the Matamoros district, just south of Texas and whose forces had actively participated in raids – with General Eugenio López.¹¹³ Despite cracking down considerably on raiders who were harbored in northern Mexico, López, was later replaced by yet another general after referring to the raiders as "*revolucionarios Texanos*" ["Texan revolutionaries"].¹¹⁴ General Alfredo Ricaut, who "had a reputation of friendliness with the United

¹¹¹ Cacho, *Social Death*, 15.

¹¹² Brown, *Walled States*, 45–46.

¹¹³ Cumberland, "Border Raids," 302–3.

¹¹⁴ Sandos, *Rebellion in the Borderlands*, 121.

States,” took his place, at which points the raids virtually ended.¹¹⁵ Regardless of Carranza’s actual connection to the raids, the fact that they stopped as soon as he was officially recognized shows that he had at least some power over them, or at least had the power to stop them with military violence on the Mexican side of the border. Even as the Plan of San Diego raids brought the two countries to the brink of war, each sovereign power had a vested interest in bringing the raids to an end. Carranza, while exploiting the raids to his benefit, was certainly wary of what a true anarchist uprising would mean for his quest for power. Just a month earlier, Carranza had called on the U.S. to help rid himself of his anarchist critics, namely Flores Magón and the PLM, whom Carranza misrecognized of the Mexican branch of the anarcho-syndicalist International Workers of the World (I.W.W.).¹¹⁶

The anarchist uprising in the borderlands within which the Plan of San Diego was situated ultimately threatened the sovereignty of both nations. Not unlike the “*indio bárbaro*” seventy years prior, the spatial practices and racial makeup proposed by the Plan of San Diego undermined the liberal sovereignty of the United States and Mexico, and were responded to by casting the Plan adherents firmly outside of each nation. Prior to his recognition as the *de facto* leader of Mexico, Plan of San Diego adherents had active support in the Carrancista press.¹¹⁷ Following his recognition, however, representations of Plan adherents in the Carrancista press shifted from “*revolucionarios*” [“revolutionaries”] to “*bandoleros*” [“bandits”].¹¹⁸ In this move, Carranza refuted any prior alliances with Plan adherents and designated them as bandits, deserving of violence from the Mexican military now under his control.

By the time the raids had come to an end, the economy and population of the Rio Grande Valley had been decimated.¹¹⁹ More than half of the original valley population had fled due to fear of violence, and the economy was in ruins.¹²⁰ While the raids killed eleven soldiers and six civilians, according to official numbers, the total death toll inflicted upon Mexican and Tejano valley residents was far greater.¹²¹

¹¹⁵ Cumberland, “Border Raids,” 307-8.

¹¹⁶ Sandos, *Rebellion in the Borderlands*, 125-26.

¹¹⁷ Harris and Sadler, “The Plan of San Diego,” 388-89.

¹¹⁸ Sandos, *Rebellion in the Borderlands*, 123.

¹¹⁹ Gómez-Quinones, “Plan de San Diego Reviewed,” 126-27.

¹²⁰ Cumberland, “Border Raids,” 302.

¹²¹ Harris and Sadler, “The Plan of San Deigo,” 390.

The estimates begin at 102, but by the summer of 1916, General Funston reported that state and local officials “did execute by hanging or shooting approximately three hundred suspected Mexicans on [the] American side of [the] river.”¹²² Over the next twenty years, rows of skeletons with bullet holes through the head continued to be found throughout the valley.¹²³

VISIONING AN UNTHINKABLE POLITICS

Less than ten months after its birth, the Plan of San Diego was more or less crushed by federal authorities on both sides of the border. In an attempt to understand this ultimate failure, as well as the decline of the anarchist movement surrounding the Plan, historians – many of which have been cited throughout this paper – have offered critiques of both the anarchist movement surrounding the Plan of San Diego and the Plan of San Diego itself. Such critiques have centered on the lack of a coherent on the part of Plan and the anarchist program of the PLM. Juan Gómez-Quiñones has argued that the flaws of anarchism are a result of its idealistic tendencies – harkening back to a supposedly utopian past to critique the ills of the present – writing, “Anarchism’s failure is objective and clear; it is theoretically poor and tactically bankrupt” due in part to its “inability to maintain stable organizations and coordinate sustained actions.”¹²⁴ James Sandos has repeatedly pointed to the tedious balance played by Flores Magón between peaceful reform and violent revolution, anarchism and socialism, concluding that he relied on tactics of “deceit” and “deception” to gain and retain followers.¹²⁵ In regards to the Plan of San Diego, Sandos has argued that its goal of forming a republic is antithetical to anarchist, concluding that its February 20

¹²² Harris and Sadler, 392.

¹²³ Harris and Sadler, 391.

¹²⁴ Gómez-Quiñones, *Sembradores*, 12-13. Gómez-Quiñones offers the caveat that the anarchism of the PLM proved more successful than other articulations of anarchism precisely because of its emphasis on collectivity over individuality and its incorporation of rural *campesinos* in its revolutionary platform, as opposed to European and Eastern U.S. anarchist thought that focused on the urban proletariat.

¹²⁵ Sandos, *Rebellion in the Borderlands*, 22, 30, 45. Sandos discussion continues, however, to argue that despite tactics of deceit and deception, a tumultuous political climate, and being sent to prison, Flores Magón persisted in his fight and vision, and emerged as a prophet with the rise of the Plan of San Diego.

revision “lacked the coherent focus of a single mind and single philosophy behind it.”¹²⁶

Despite these critiques, which speak to the practical failure of anarchism, the PLM, and the Plan of San Diego, both Gómez-Quíñones and Sandos recognize (at least in passing) the visionary potential that these political formations offer. Gómez-Quíñones points to the power of Flores Magón’s writings, arguing that Flores Magón was artistic and humanistic until the end, and praising his emphasis on creativity over violence. Gómez-Quíñones concludes that “the primary task [of Flores Magón and the PLM] was to prepare, to seed, to educate.”¹²⁷ Even as Sandos critiques the incoherent vision of the Plan of San Diego, he argues that its mixed messages allowed it to be legible to all regardless of their opinions of anarchism, and that it was indeed these mixed messages that allowed it to embrace not only Mexicans and Mexican-Americans, but also African Americans, indigenous people, and Asians in both the United States and Mexico.¹²⁸ This thesis is aligned with the praise of visionary thought offered by Sandos and Gómez-Quíñones. While both of these authors critique the incoherent vision of the PLM and the Plan of San Diego, I propose that this “incoherent vision” is precisely what allows the PLM and the Plan of San Diego to resist what Lisa Marie Cacho has called the “lure of legibility.”¹²⁹ Regardless of

¹²⁶ Sandos, 84.

¹²⁷ Gómez-Quíñones, *Sembradores*, 8, 63, 70-71.

¹²⁸ Interestingly, despite the central role that interracial solidarity played in the vision of the Plan, this facet is quite underexplored in existing scholarship. Most scholarship on the Plan acknowledges its interracial vision, but only James Sandos directly analyzes the fact that names of purported raiders included those who were likely Japanese, with no mention of the role that Black or indigenous people played. The most straightforward explanation for the vision of interracial solidarity offered by the Plan is in its opposition to the exclusionary racial logic of the United States. In positioning itself oppositionally to the exclusionary characteristic of both whiteness and property, there is space for an inclusive interracial counter-articulation to emerge. In the quest for social value, marginalized communities are often recruited into rights-based politics that demand the denigration of other more-marginalized groups to obtain small amounts of privileges in the eyes of the U.S. legal system and white public. In its inclusionary racial logic premised on solidarity, the Plan of San Diego not only proposes a contestation to whiteness and property, but also provides a space for organizing across racial lines that refuses rights-based politics that seek inclusion into the status quo. Sandos, *Rebellion in the Borderlands*, 84, 106; Cacho, *Social Death*.

¹²⁹ Cacho, *Social Death*, 31. The phrase “lure of legibility” is drawn from Grace Kyungwon Hong, who writes that “the allure of legibility is undeniably difficult to

whether or not the authors of the Plan sought to refuse legibility – and indeed historical accounts of the Plan show that refusing legibility was not the expressed intent of the plan – the reality of its lack of a unified vision and its ultimate impracticality point towards a stance that refuses both legibility and practicality. Such a decision to stage a fight against all practical odds aligns with what Derrick Bell has termed “racial realism.” Racial realism is understood by Cacho as “a form of unthinkable politics because it proposes that we begin battles we’ve already lost, that we acknowledge and accept that everything we do may not ever result in social change.”¹³⁰ The question arises: did adherents to the Plan of San Diego believe their goal was possible? There must have been an inkling of hope that it was not only possible but practical enough to risk one’s life for. But regardless of whether they thought it possible and practical, adherents to the Plan were engaged in a project of racial realism, precisely because they made the choice to join the struggle against insurmountable odds. The “failure” of the Plan of San Diego, then, must be viewed through a lens that takes seriously not only what was destroyed, but what was produced. The vision of the Plan of San Diego offered a contestation to liberal sovereignty, white supremacy, and capitalism, but also proposed an idea for what an alternative world could look like. In hindsight, this vision looks impossible, but the mere act of visioning itself, I believe, is the most powerful and radical act undertaken by the Plan of San Diego, and offers us a glimpse into what is required to transform our reality into one in which all can not only survive, but truly live.

resist. Indeed, imagining a politics based on the refusal of social value is an impossible, unthinkable option, one, in truth, outside of any available notion of the political.”

¹³⁰ Cacho, 32.

APPENDIX A: TRANSLATION COPY OF THE PLAN OF SAN DIEGO FROM GÓMEZ-QUINONES, "PLAN OF SAN DIEGO REVIEWED," 128-131

*Translation
Copy*

Provisional Directorate of the Plan of San Diego, Texas.

PLAN OF SAN DIEGO, TEXAS, STATE OF TEXAS
JANUARY 6th, 1915.

We who in turn sign our names, assembled in the REVOLUTIONARY PLOT OF SAN DIEGO, TEXAS, solemnly promise each other, on our word of honor, that we will fulfill, and cause to be fulfilled and complied with, all the clauses and provisions stipulated in this document, and execute the orders and the wishes emanating from the PROVISIONAL DIRECTORATE of this movement, and recognize as military Chief of the same, Mr. Augustin S. Garza, guaranteeing with our lives the faithful accomplishment of what is here agreed upon.

1. On the 20th day of February 1915, at two o'clock in the morning, we will arise in arms against the Government and country of the United States of North America, ONE AS ALL AND ALL AS ONE, proclaiming the liberty of the individuals of the black race and its independence of Yankee tyranny which has held us in iniquitous slavery since remote times; and at the same time and in the same manner we will proclaim the independence and segregation of the States bordering upon the Mexican Nation, which are: TEXAS, NEW MEXICO, ARIZONA, COLORADO, AND UPPER CALIFORNIA, OF WHICH States the Republic of MEXICO was

robbed in a most perfidious manner by North American imperialism.

2. In order to render the foregoing clause effective, the necessary army corps will be formed, under the immediate command of military leaders named by the SUPREME REVOLUTIONARY CONGRESS OF SAN DIEGO, TEXAS, which shall have full power to designate a SUPREME CHIEF, who shall be at the head of said army. The banner which shall guide us in this enterprise shall be red, with a white diagonal fringe, and bearing the following inscription: "EQUALITY AND INDEPENDENCE" and none of the subordinate leaders or subalterns shall use any other flag (except only the white flag for signals). The aforesaid army shall be known by the name of: "LIBERATING ARMY FOR RACES AND PEOPLES."

3. Each one of the chiefs shall do his utmost by whatever means possible to get possession of the arms and funds of the cities which he has beforehand been designated to capture, in order that our cause may be provided with resources to continue to fight with proper success. The said leaders each being required to render account of everything to his superiors, in order that the latter may dispose of it in the proper manner.

4. The leader who may take a city must immediately name and appoint municipal authorities, in order that they may preserve order and assist in every way possible the revolutionary movement. In case the Capital of any State which we are endeavoring to liberate be captured, there will be named in the same manner superior municipal authorities, for the same purpose.

5. It is strictly forbidden to hold prisoners, either special prisoners (civilians) or soldiers; and the only time that should be spent in dealing with them is that which is absolutely necessary to demand funds (loans) of them; and whether these demands be successful or not, they shall be shot immediately without any pretext.

6. Every stranger who shall be found armed and who cannot prove his right to carry arms, shall be summarily executed, regardless of his race or nationality.

7. Every North American over sixteen years of age shall be put to death; and only the aged men, the women, and the children shall be respected; and on no account shall the traitors to our race be spared or respected.

8. THE APACHES of Arizona, as well as the INDIANS (RED SKINS) of the Territory, shall be given every guarantee; and their lands which have been taken from them shall be returned to them to the end that they may assist us in the cause which we defend.

9. All appointments and grades in our army which are exercised by subordinate officers (subalterns) shall be examined (recognized) by the superior officers. There shall likewise be recognized the grades of leaders of other complots which may not be connected with this, and who may wish to cooperate with us; also those who may affiliate with us later.

10. The movement having gathered force, and once having possessed ourselves of the States above alluded to, we shall proclaim them an INDEPENDENT REPUBLIC, later requesting (if it be thought expedient) annexation to MEXICO, without concerning ourselves at that time about the form of Government which may control the destinies of the common mother country.

11. When we shall have obtained independence for the negroes, we shall grant them a banner, which they themselves be permitted to select, and we shall aid them in obtaining six States of the American Union, which States border upon those already mentioned, and they may form from these six States a Republic that they may, therefore, be independent.

12. None of the leaders shall have power to make terms with the enemy, without first communicating with the superior officers of the army, bearing in mind that this is a war without quarter; nor shall any leader enroll in his ranks any stranger, unless said stranger belong to the Latin, the negro or the Japanese race.

13. It is understood that none of the members of this COMLOT (or any one who may come in later), shall, upon the definite triumph of the cause which we defend, fail to recognize their superiors, nor shall they aid others who, with bastard designs, may endeavor to destroy what has been accomplished by such great work.

14. As soon as possible, each local society (junta) shall nominate delegates who shall meet at a time and place beforehand designated, for the purpose of nominating a PERMANENT DIRECTORATE OF THE REVOLUTIONARY MOVEMENT. At this meeting shall be determined and worked out in detail the powers and duties of the PERMANENT DIRECTORATE, and this REVOLUTIONARY PLAN may be revised or amended.

15. It is understood among those who may follow this movement that we will carry as a singing voice the independence of the negroes, placing obligations upon both races; and that, on no account will we accept aid, either moral or pecuniary, from the Government of Mexico, and it need not consider itself under any obligations in this, our movement.

"EQUALITY AND INDEPENDENCE"

San Diego, Texas, Jan. 6, 1915.

President,

Signed, L. Farrigno.

Signed, Augustin S. Garza, Com.

Signed, Manuel Flores

Signed, B. Ramos, Jr.

Secretary,

Signed, A. Gonzales, Lawyer

Signed, A. A. Saenz,
Saloon Keeper

Signed, E. Cisneros

Signed, A. C. Alamraz.

BIBLIOGRAPHY

- Albro, Ward S. *Always a Rebel: Ricardo Flores Magón and the Mexican Revolution*. Fort Worth: Texas Christian University Press, 1992.
- Appadurai, Arjun. *Fear of Small Numbers: An Essay on the Geography of Anger*. Durham and London: Duke University Press, 2006.
- Barbone, Paul Joseph. "'We Were Recruited From the Warriors of Many Famous Nations,' Cultural Preservation: U.S. Army Western Apache Scouts, 1871-1947." PhD diss., University of Arizona, 2010. Accessed November 25, 2019.
<https://repository.arizona.edu/handle/10150/193387>.
- Brown, Wendy. *Walled States, Waning Sovereignty*. New York: Zone Books, 2017.
- Cacho, Lisa Marie. *Social Death: Racialized Rightlessness and the Criminalization of the Unprotected*. New York: New York University Press, 2012.
- Carrigan, William D., and Clive Webb. "The Lynching of Persons of Mexican Origin or Descent in the United States, 1848 to 1928." *Journal of Social History* 37, no. 2 (2003): 411–38.
- Cornell, Andrew. *Unruly Equality: U.S. Anarchism in the Twentieth Century*. Oakland, California: University of California Press, 2016.
- Cumberland, Charles C. "Border Raids in the Lower Rio Grande Valley-1915." *The Southwestern Historical Quarterly* 57, no. 3 (1954): 285–311.
- Flores Magón, Ricardo. *Dreams of Freedom: A Ricardo Flores Magón Reader*. Edited by Chaz Bufe and Mitchell Cowen Verter. Oakland, CA: AK Press, 2005.
- Gómez-Quíñones, Juan. "Plan de San Diego Reviewed." *Aztlán* 1 (Spring 1970): 124–32.
- Gómez-Quíñones, Juan. *Sembradores, Ricardo Flores Magon y El Partido Liberal Mexicano: A Eulogy and Critique*. Rev. ed. Chicano Studies Center Publications. Monograph No. 5. Los Angeles: University of California, Chicano Studies Center, 1977.

- Harris, Charles H., and Louis R. Sadler. "The Plan of San Diego and the Mexican-United States War Crisis of 1916: A Reexamination." *The Hispanic American Historical Review* 58, no. 3 (1978): 381-408.
- Harris, Cheryl I. "Whiteness as Property." *Harvard Law Review* 106, no. 8 (1993): 1707-91.
- Hernández, Roberto. *Coloniality of the U-S/Mexico Border: Power, Violence, and the Decolonial Imperative*. Tucson: The University of Arizona Press, 2018.
- Jenkins, Jennifer L. "Framing Race In The Arizona Borderlands: The Western Ways Apache Scouts and Sells Indian Rodeo Films." *The Moving Image: The Journal of the Association of Moving Image Archivists* 14, no. 2 (2014): 68-95.
- Kazanjian, David. *The Colonizing Trick : National Culture and Imperial Citizenship in Early America*. Minneapolis : University of Minnesota Press, 2003.
- Kelley, Robin D. G. *Freedom Dreams : The Black Radical Imagination*, 2002.
- Lomnitz-Adler, Claudio. *The Return of Comrade Ricardo Flores Magón*. Brooklyn, NY: Zone Books, 2014.
- Menchaca, Martha. *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans*. Austin: University of Texas Press, 2001.
- Ruiz Cameron, Christopher David. "One Hundred Fifty Years of Solitude: Reflections on the End of the History Academy's Dominance of Scholarship on the Treaty of Guadalupe Hidalgo." *Bilingual Review / La Revista Bilingüe* 25, no. 1 (2000): 1-22.
- Saldaña-Portillo, María Josefina. *Indian Given: Racial Geographies across Mexico and the United States*. Durham and London: Duke University Press, 2016.
- Saldaña-Portillo, María Josefina. "Persistent Geography of the Indio Bárbaro." Accessed November 21, 2019. <https://www.youtube.com/watch?v=NEsm1L13KjY>.
- Saldaña-Portillo, María Josefina. *The Revolutionary Imagination in the Americas and the Age of Development*. Latin America Otherwise. Durham and London: Duke University Press, 2003.

Sandos, James A. *Rebellion in the Borderlands: Anarchism and the Plan of San Diego, 1904-1923*. 1st ed. Norman: University of Oklahoma Press, 1992.

Tate, Michael L. "From Scout to Doughboy: The National Debate over Integrating American Indians into the Military, 1891-1918." *The Western Historical Quarterly* 17, no. 4 (1986): 417-37.

Tate, Michael L. "'Pershing's Pets': Apache Scouts in the Mexican Punitive Expedition of 1916." *New Mexico Historical Review; Albuquerque, Etc.* 66, no. 1 (January 1, 1991): 49-71.

Truett, Samuel. *Fugitive Landscapes: The Forgotten History of the U.S. Mexico Borderlands*. New Haven: Yale University Press, 2006.

SUBVERTING OWNERSHIP: GRAFFITI AS A RECLAMATION OF COLLECTIVE PROPERTY

DANIEL ONI

In December of 2018, Paris' famous monument, the Arc De Triomphe, was tagged with graffiti that read "Les Gilet Jaunes Triompherant." Coming in the wake of protests by the Gilet Jaunes movement¹ it translates to "The Yellow Jackets Will Triumph." Its placement on the Arc De Triomphe was highly symbolic as it came at a time when French president, Emmanuel Macron was supposed to tour the city.² The use of graffiti is now widespread across the globe, but it also occupies a crucial role as one of the five elements of hip hop.³ Graffiti represents the visual aspect of hip hop, showing how the genre interacts with its environment in different ways; furthermore, as an element of hip hop, graffiti also indicates that hip hop is a broader artistic movement and not simply another genre of music. Graffiti is still considered a form of vandalism under the U.S legal system, thus criminalising the artistic and political expression that results from its practice. This essay will argue that graffiti operates as a way to subvert notions of property through its democratisation of space. In order to do this, I will be exploring how the state, freedom

¹ Aurélie Dianara, "We're With the Rebels," *Jacobin*, November 30, 2018, <https://jacobinmag.com/2018/11/yellow-vests-france-gilets-jaunes-fuel-macron>. "The *gilets jaunes* came together to protest against the increase in fuel prices [...] the fuel price issue is something of a "straw that broke the camel's back" [...] the result of years of fiscal and social policies that have gradually strangled the low and middle classes, including in terms of the tax take."

² Sylvie Corbet, "Emmanuel Macron Tours Damaged Arc De Triomphe after Paris Riots," *USA Today*, December 02, 2018, <https://www.usatoday.com/story/news/world/2018/12/02/riot-paris-emmanuel-macron-tours-damaged-arc-de-triomphe/2183540002/>.

³ Muce305, "5 Elements of Hip Hop," MUCE, accessed April 09, 2019, <http://muce305.org/5-elements-of-hip-hop/>. The other four elements are DJing, MCing, Breakdancing and Knowledge.

and property interact in the context of graffiti in hip hop by engaging with modern and premodern political theorists of property with a focus on anarchist conceptions of property.

According to the Merriam-Webster dictionary, graffiti is defined as “usually unauthorized writing or drawing on a public surface.”⁴ This definition is how many understand graffiti: it has been used to describe everything from scribbles and scratches on bathroom doors and bus windows. Graffiti in the hip hop sense, however, involves ornate tags, throw-ups, and pieces.⁵ Graffiti caught public attention when artists began marking NYC subway trains in the 1970s. Craig Castleman discusses the politics surrounding the graffiti in ‘70s New York City. In his essay “The Politics of Graffiti,” he goes over the role New York’s newspapers played in shaping public perception of graffiti and graffiti artists. According to Castleman, “the appearance of the mysterious message ‘Taki 183’ had sufficiently aroused the curiosity of New Yorkers to lead the *New York Times* to send one of its reporters to determine its meaning.”⁶ Taki 183, it turned out, was a “17-year-old recent high school graduate” who adopted the name ‘Taki,’ a “diminutive for Demetrius, his real first name,” and went around the city writing “his name and his street number everywhere he [went].”⁷ The article in the *Times* created an image of Taki as an engaging character, leading him to become a folk hero inspiring even more artists.⁸

As the ranks of graffiti artists swelled, writing became even more elaborate. The creation of a work takes an immense amount of time, planning, and risk. As Tricia Rose explains in *Black Noise*, “no longer a

⁴ “Graffiti,” Merriam-Webster, accessed April 09, 2019, <https://www.merriam-webster.com/dictionary/graffiti>.

⁵ Matt Randal, “10 Graffiti Terms and Their Meaning,” Widewalls, 2014, <https://www.widewalls.ch/10-graffiti-terms/>; “Graffiti: What Is Graffiti Art?” Hip Hop Area, 2008, <http://www.hiphoparea.com/graffiti/what-is-graffiti-art.html>. A tag is an extremely stylized signature of the artists’ moniker, throw-ups are similar to tags but are predominantly bubble letters designed to be quickly executed, pieces are large works of graffiti that are complex and require large amounts of time. They are also quite labour-intensive and often created by groups of highly skilled artists.

⁶ Craig Castleman, “The Politics Of Graffiti,” in *That’s The Joint!: The Hip-hop Studies Reader*, ed. Murray Forman and Mark Anthony Neal (NY: Routledge, 2004), 21.

⁷ “Taki 183,” *The New York Times*, July 21, 1971, <https://www.nytimes.com/1971/07/21/archives/taki-183-spawns-pen-pals.html>.

⁸ “Taki 183.”

matter of simple tagging, graffiti began to develop elaborate styles, themes, formats and techniques, most of which were designed to increase visibility, individual identity and status.”⁹ This, of course, did not sit well with authorities: another article in the *Times* was released in spring 1972, this time to declare war on graffiti artists. In this one, the *Times* advised the city to ban the sale of spray paint to minors, thus addressing the root cause of the graffiti “problem.”¹⁰ After this, public animosity towards graffiti and graffiti artists began to increase, resulting in further criminalisation of the art form. As graffiti became political, the young writers were “demonized, pathologized, and criminalized.”¹¹ Black and Hispanic youths were defensively positioned against state power and, as graffiti evolved, were increasingly under police surveillance and constraint.¹² In 1973 it was reported that 1,562 young people had been arrested for “defacing subways and other public places with graffiti.”¹³

Graffiti has long been integrated as a practice of space and a struggle over it.¹⁴ That is to say, graffiti amplifies spatialised distributions of meaning as it permits and reifies “localized practices of self.”¹⁵ However, space, and, in particular, urban space, is already political; for meaning to be achieved via the aforementioned localised practices, a struggle has to take place. The question then becomes which sides are struggling and what the stakes are in the struggle. This was understood by P.R. Patterson who, in their letter to the *Times*, criticised most people for “subduing the desire to mark up subways as a protest against the indignities of city bureaucracies.”¹⁶ They understood that the context in which graffiti emerged was a product of structural failings by the government of NYC. Graffiti made it possible for individuals who had been disenfranchised and ignored by the socio-economic and political system to claim their identity in

⁹ Tricia Rose, *Black Noise: Rap Music and Black Culture in Contemporary America* (Hanover: University Press of New England, 1994), 42.

¹⁰ Castleman, “Politics Of Graffiti,” 22.

¹¹ Murray Forman, “Hip-Hop Ya Don’t Stop: Hip-Hop History and Historiography,” in *That’s The Joint!: The Hip-hop Studies Reader*, ed. Murray Forman and Mark Anthony Neal (NY: Routledge, 2004), 10.

¹² Forman, “Hip-Hop Ya Don’t Stop,” 10.

¹³ Castleman, “Politics of Graffiti,” 24.

¹⁴ Forman, “Hip-Hop Ya Don’t Stop,” 155.

¹⁵ Forman, 155.

¹⁶ Castleman, “Politics of Graffiti,” 24.

spaces *owned* by the system. By operating in this vein, graffiti serves as a mechanism to further carry hip hop's ideals of resistance.¹⁷

In *The Republic*, Plato argues that collective ownership was necessary to promote a shared pursuit of the common interest as well as prevent a situation where "some grieve exceedingly and others rejoice at the same happenings."¹⁸ Looking at the situation in New York leading up to and intensifying in the 1970s, however, we can see that it was indeed the case that some grieved exceedingly while others rejoiced. Hip hop was born out of a New York City undergoing a brutal process of community destruction and relocation. It was a period of immense social, political and economic repression in neighbourhoods which were then deemed slums. The Black and Hispanic residents who were relocated were structurally denied city resources and political power.¹⁹ Returning to the definition of graffiti provided earlier,²⁰ I would like to draw attention to "unauthorised" and "public." In this definition, there is an implicit assumption about who makes up the public and who is doing the authorising: Jean-Jacques Rousseau and Immanuel Kant's normative political philosophy argues that property must be based on consent—the consent of everyone affected by decisions about the use and control of a given set of resources.²¹ In the case of graffiti's emergence, the actors with the power to make decisions were not those that would have been affected by them. Graffiti and hip hop emerged as responses to this lack of consent, the breach of the social contract by a racist city government²². Given the exclusion of poor (and predominantly Black and Hispanic) communities in the understanding of who comprises the public, the notion of property utilised in this definition of graffiti can be viewed as private to those in the power structure.²³ It is in the

¹⁷ Bonuscut, "The Power of Graffiti and Hip-Hop Culture," *Bonus Cut*, June 19, 2013, <https://bonuscut.com/2013/06/19/the-power-of-graffiti-and-hip-hop-culture/>.

¹⁸ Plato, *The Republic*, trans. Robin Waterfield (New York: Oxford University Press, 1994), 462b-c.

¹⁹ Rose, *Black Noise*, 33.

²⁰ As a reminder, the Merriam-Webster dictionary defines graffiti as "usually unauthorized writing or drawing on a public surface."

²¹ Jeremy Waldron, "Property and Ownership," *Stanford Encyclopedia of Philosophy*, September 06, 2004, <https://plato.stanford.edu/entries/property/#3>.

²² Rose, *Black Noise*, 34.

²³ Emma Goldman, *Red Emma Speaks: The Selected Speeches and Writings of the Anarchist and Feminist Emma Goldman*, comp. Alix Shulman (London: Wildwood

light of the resulting exclusion that Pierre-Joseph Proudhon examines property: he says "property... violates equality by the rights of exclusion and increase, and freedom by despotism...[and has] perfect identity with robbery."²⁴ He asserts that (private) property is a source of coercive, hierarchical authority that leads to exploitation and reproduces privilege and inequality. In the context of '70s and '80s New York, this is evident in how the mobilisation against graffiti took place. Take the case of one of the transit policemen, Steven Schwartz, who in August of 1972 received commendation from Mayor Lindsay. Craig Castleman describes the event as such:

Mayor Lindsay held a ceremony in his office at which he officially commended one of Dr. Ronan's transit policemen, patrolman Steven Schwartz, for his "personal crusade" against graffiti. Schwartz alone had apprehended thirteen writers in the previous six months, a record for graffiti arrests unmatched in the department. The mayor followed up the ceremony with a statement that it was the "Lindsay theory" that graffiti writing "is related to mental health problems." He described the writers as "insecure cowards" seeking recognition.²⁵

Here we see how maintenance of state power is rewarded and, additionally, how through coercive state power Mayor Lindsay criminalised not only the act of writing graffiti but the mental state of those who participate in it. As a result of there being "a possessing and non-possessing group of human beings," the state becomes "indispensable to the possessing minority for the protection for its privileges."²⁶ That is to say, because the alignments of power are so closely tied to property ownership, when the owners of property constitute a minority they are still able to exert a disproportionate amount of power on the non-possessing populace. In order to maintain this power, the instruments of coercion available to the state become integrated into the constellation of instruments the

House, 1979), 406-407. On state property, Emma Goldman says "it belongs to the state; this is, the government has control of it and can dispose of it according to its wishes and views," as opposed to property being public in that sense that it "belong[s] to the people, to be settled and used by individuals or groups according to their needs" based on "free access."

²⁴ Pierre Joseph Proudhon, *What Is Property? An Inquiry into the Principle of Right and of Government*, trans. Benjamin Ricketson Tucker (London: Reeves, 1898), 251.

²⁵ Castleman, "Politics Of Graffiti," 22.

²⁶ Rudolf Rocker, *Anarcho-Syndicalism* (New York: Gordon Press, 1972), 11.

possessing minority utilises; what Rocker asserts in this statement is that, in fact, the state becomes *the* primary instrument for the possessing few. This power and its ability to suppress identity is what hip hop (and, as an extension, graffiti) exists in opposition to.

How then does graffiti act as a subversive mechanism? As Greg Tate says, "the advent of hip hop can be said to have contributed...radical acts of counterinsurgency, turning a community of passive pop consumers into one of creative...producers."²⁷ The post-industrial city was crucial in shaping the cultural terrain of early artists. For graffiti artists, the urban transit system was their artistic medium, their canvas.²⁸ It required them to have mastery of its routes and plan intensely how a piece would fit together. This can be interpreted in the frame of what W.E.B Du Bois called the "second sight": that process by which the "minority" knows the majority not only better than the obverse but often better than the "majority."²⁹ In the case of graffiti, writers gain an understanding of the urban systems that far out measure the knowledge of the authorities. By doing this they are able to engage with urban space more genuinely and productively than the dominant group of property owners and not simply as consumers of urban space. Graffiti artists kept putting up tags and throw-ups even as the campaign against them intensified. This resistance to state coercion echoes Mikhail Bakunin's call for the "absolute rejection of every authority including that which sacrifices freedom for the convenience of the state."³⁰ He goes on to write that:

Primitive society had no conception of freedom; and as society evolved, before the full awakening of human rationality and freedom, it passed through a stage controlled by human and divine authority. The political and economic structure of society must now be reorganized on the basis of freedom. Henceforth, order in society must result from the greatest possible realization of individual liberty, as well as of liberty on all levels of social organization.³¹

²⁷ Andrew Bartlett, "Airshafts, Loudspeakers and the Hip Hop Sample: Contexts and African American Musical Aesthetics," in *That's The Joint!: The Hip-hop Studies Reader*, ed. Murray Forman and Mark Anthony Neal (NY: Routledge, 2004), 393.

²⁸ Rose, *Black Noise*, 34.

²⁹ Bartlett, "Airshafts, Loudspeakers and the Hip Hop Sample," 393.

³⁰ Mikhail Aleksandrovich Bakunin, *Bakunin on Anarchy: Selected Works by the Activist-Founder of World Anarchism*, trans. Sam Dolgoff (New York: Knopf, 1971), 76.

³¹ Bakunin, *Bakunin on Anarchy*, 76.

As Taki 183 explained “you do it for yourself.” Graffiti artists are engaged in constant opposition to state authority in order to establish their freedom and identity on the spaces they engage with but do not “own” due to the confines of property. Taki also made an astute observation when he said “why do they go after the little guy? Why not the campaign organizations that put stickers all over the subways at election time?”³² This demonstrates the way in which the power structure is set up to further underprivilege the underprivileged to protect the privileges of those at the top of the hierarchy— property owners. Furthermore, in having authors be ambiguous, graffiti changes the way creation is understood. By virtue of leaving their work on the street cryptically named,³³ graffiti artists inspire a different kind of imagination from the individualistic, neoliberal conception of creation.³⁴ By disseminating their work this way, graffiti artists create a democratic communal knowledge in the places their works are located.³⁵

Furthermore, graffiti challenges much of the neoliberal ethos that shaped the ‘70s and ‘80s and is still pervasive today. As Wendy Brown details in *Undoing the Demos*, neoliberalism has created an emasculated version of “the public.” The art of graffiti, however, overturns this ideology by claiming public space as the domain of the community and using it as a place where individuals can assert their identity within a communal whole. Putting works in spaces where members of the community can see and engage with the work also sends a message about what public spaces *ought* to be. It breaks away from the elitism in contemporary art by having a “commons” where community members can interact with the pieces. In doing this, graffiti challenges the dominant understanding of ownership and “signifies and theorizes communality.”³⁶ The notion of communal

³² Castleman, “Politics Of Graffiti,” 21.

³³ “Language and Rules of Graffiti Artists,” Graffiti vs. Street Art Discourse Groups, December 02, 2012, <https://iwillnotbeconsumed.wordpress.com/language-and-rules-of-graffiti-artists/>. Graffiti writers “tag” their works. A tag is a writer’s logo and personally stylised signature. Tags are never real names but rather aliases guaranteeing the anonymity of the creators.

³⁴ Max Harris, “Graffiti Politics: On Street Art, Space, and Public Democracy,” *Codex Press*, September 25, 2017, <https://thedial.co/articles/graffiti-politics-on-street-art-space-and-public-democracy>.

³⁵ Bartlett, “Airshafts, Loudspeakers and the Hip Hop Sample,” 403.

³⁶ Bartlett, 404.

theorisation echoes even further in how writers “belong to and work in crews.”³⁷ Bakunin is quoted as saying “[n]o individual can recognise his own humanity, and consequently realise it in his lifetime, if not by recognising it in others and co-operating in its realisation for others.”³⁸ For graffiti crews, “group identity and individual development are equally central.”³⁹ This reflects Bakunin’s assertion, made in reference to the political movement of anarchism. From this, we can see how graffiti embodies the essence of anarchism; an anti-authoritarian ethos that seeks to create conditions for the individual to flourish through the collective.

What is more, graffiti is subversive in how it transforms items from their original purpose and creates new meaning from use. In particular, spray paint cans and their technological improvement in nozzles, adhesion and paint texture, led to a wider range of expression in graffiti writing.⁴⁰ This alters understandings of ownership in a way that again emphasises the importance of public use. The ways members of a non-emasculated public engage and interact with materials, spaces and possessions are radically different from the conceptions those with property would have. Hip hop beat production also has a history of repurposing sounds that have property rights conferred upon them.⁴¹ This parallel of taking things that are owned and transforming them into new, vibrant, shared experiences is indicative of the way hip hop functions as a means of constantly changing what constitutes knowledge in a certain space— something graffiti achieves as well.

For the Gilet Jaunes, graffiti is only one of the many weapons in their arsenal in their fight against the French establishment. However, their use of it is symbolic of what graffiti has come to represent. Graffiti has come to exemplify a counter-culture and a method of subversion for many across the globe. It reflects hip hop’s struggle against the dominant culture of the powerful, through its approach to ownership, property, authority and its engagement with the *demos*.

³⁷ Tricia Rose, *Black Noise*, 43.

³⁸ Errico Malatesta, *Anarchy*, trans. Vernon Richards (London: Freedom Press, 2009), 30.

³⁹ Rose, *Black Noise*, 43.

⁴⁰ Rose, 42.

⁴¹ Thomas G. Schumacher, “‘This Is a Sampling Sport’: Digital Sampling, Rap Music, and the Law in Cultural Production,” in *That’s The Joint!: The Hip-hop Studies Reader*, ed. Murray Forman and Mark Anthony Neal (NY: Routledge, 2004).

BIBLIOGRAPHY

- Bakunin, Mikhail Aleksandrovich. *Bakunin on Anarchy: Selected Works by the Activist-Founder of World Anarchism*. Translated by Sam Dolgoff. New York: Knopf, 1971.
- Bartlett, Andrew. "Airshafts, Loudspeakers and the Hip Hop Sample: Contexts and African American Musical Aesthetics." In *That's The Joint!: The Hip-hop Studies Reader*, 393-406. Edited by Murray Forman and Mark Anthony Neal. NY: Routledge, 2004.
- BonusCut. "The Power of Graffiti and Hip-Hop Culture." *BonusCut*. June 19, 2013. Accessed April 09, 2019.
<https://bonuscut.com/2013/06/19/the-power-of-graffiti-and-hip-hop-culture/>.
- Brown, Wendy. *Undoing the Demos: Neoliberalism's Stealth Revolution*. New York: Zone Books, 2017.
- Castleman, Craig. "The Politics Of Graffiti." In *That's The Joint!: The Hip-hop Studies Reader*, 21-29. Edited by Murray Forman and Mark Anthony Neal. NY: Routledge, 2004.
- Corbet, Sylvie. "Emmanuel Macron Tours Damaged Arc De Triomphe after Paris Riots." *USA Today*. December 02, 2018. Accessed April 09, 2019.
<https://www.usatoday.com/story/news/world/2018/12/02/riot-paris-emmanuel-macron-tours-damaged-arc-de-triomphe/2183540002/>.
- Dianara, Aurélie. "We're With the Rebels." *Jacobin*, November 30, 2018. <https://jacobinmag.com/2018/11/yellow-vests-france-gilets-jaunes-fuel-macron>.
- Forman, Murray. "Hip-Hop Ya Don't Stop: Hip-Hop History and Historiography." In *That's The Joint!: The Hip-hop Studies Reader*, 9-12. Edited by Murray Forman and Mark Anthony Neal, 9-12. NY: Routledge, 2004.
- Forman, Murray. "Ain't No Love In the Heart of the City: Hip-Hop, Space and Place." In *That's The Joint!: The Hip-hop Studies Reader*, 155-7. Edited by Murray Forman and Mark Anthony Neal. NY: Routledge, 2004.

- Goldman, Emma. *Red Emma Speaks: The Selected Speeches and Writings of the Anarchist and Feminist Emma Goldman*. Compiled by Alix Shulman. London: Wildwood House, 1979.
- "Graffiti." *Merriam-Webster*. Accessed April 09, 2019. <https://www.merriam-webster.com/dictionary/graffiti>.
- "Graffiti: What Is Graffiti Art?" *Hip Hop Area*. 2008. Accessed April 09, 2019. <http://www.hiphoparea.com/graffiti/what-is-graffiti-art.html>.
- Harris, Max. "Graffiti Politics: On Street Art, Space, and Public Democracy." Codex Press. September 25, 2017. Accessed April 09, 2019. <https://thedial.co/articles/graffiti-politics-on-street-art-space-and-public-democracy>.
- "Language and Rules of Graffiti Artists." Graffiti vs. Street Art Discourse Groups. December 02, 2012. Accessed April 09, 2019. <https://iwillnotbeconsumed.wordpress.com/language-and-rules-of-graffiti-artists/>.
- Malatesta, Errico. *Anarchy*. Translated by Vernon Richards. London: Freedom Press, 2009.
- Muce305. "5 Elements of Hip Hop." *MUCE*. Accessed April 09, 2019. <http://muce305.org/5-elements-of-hip-hop/>.
- Proudhon, Pierre Joseph. *What Is Property? An Inquiry into the Principle of Right and of Government*. Translated by Benjamin Ricketson Tucker. London: Reeves, 1898.
- Randal, Matt. "10 Graffiti Terms and Their Meaning." *Widewalls*, 2014. <https://www.widewalls.ch/10-graffiti-terms/>.
- Rocker, Rudolf. *Anarcho-Syndicalism*. New York: Gordon Press, 1972.
- Rose, Tricia. *Black Noise: Rap Music and Black Culture in Contemporary America*. Hanover: University Press of New England, 1994.
- Schumacher, Thomas G. "'This Is a Sampling Sport': Digital Sampling, Rap Music, and the Law in Cultural Production." In *That's The Joint!: The Hip-hop Studies Reader*, 443-58. Edited by Murray Forman and Mark Anthony Neal. NY: Routledge, 2004.

Waldron, Jeremy. "Property and Ownership." Stanford Encyclopedia of Philosophy. September 06, 2004. Accessed April 09, 2019. <https://plato.stanford.edu/entries/property/#3>.

Plato. *The Republic*. Translated by Robin Waterfield. New York: Oxford University Press, 1994.

"Taki 183." *The New York Times*. July 21, 1971.

<https://www.nytimes.com/1971/07/21/archives/taki-183-spawns-pen-pals.html>.

A LEAP IN THE DARK: MARGINALIZED WORKERS, TITLE VII, AND THE LONG WAIT FOR FEDERAL PROTECTIONS

OPAL HARBOUR

"What's bizarre about this is that in the state of Georgia, I can legally get married to my partner on Saturday or Sunday and get fired for it on Monday because I don't have those federal protections. We as an LGBTQ community don't have those federal protections."

- Gerald Bostock, plaintiff in Bostock v. Clayton County, 20191

On a brisk Friday morning in Switzerland, Donald Zarda jumped from a cliff and died on impact. By all indications, Zarda had no intention of taking his own life on October 3rd, 2014. He had worn a wingsuit for the jump which had simply failed to open in time to correct his trajectory. Zarda, a 44-year-old who lived primarily in Dallas, TX, was an experienced skydiver, but his Switzerland excursion was far from standard practice. According to his longtime partner, Bill Moore, Zarda had recently gravitated away from typical skydiving and towards BASE jumping, an extremely dangerous recreational activity whose fatality rate has been reported to be as potentially high as one death per sixty excursions.² Leading up to his

¹ Tim Fitzsimons, "Central Figures in Supreme Court LGBTQ Discrimination Cases Speak Out," *NBC News*, October 10, 2019, <https://www.nbcnews.com/feature/nbc-out/central-figures-supreme-court-lgbtq-discrimination-cases-speak-out-n1064391>.

² A. Westman et al., "Parachuting from Fixed Objects: Descriptive Study of 106 Fatal Events in BASE Jumping 1981–2006," (*British Journal of Sports Medicine*, 2008). BASE jumping is an extreme recreational sport wherein participants parachute from four types of fixed structures - "building, antenna, span, or Earth." While similar in some respects to standard skydiving, BASE jumping carries a

last jump, Zarda had been opting for increasingly dangerous activities. Four years prior, he had lost his job as a skydiving instructor for Altitude Express in Calverton, New York— a loss which Moore believes sent him into a depression, pushing him into a feedback loop of palliative thrill-seeking. “I don’t think that he would have been in Europe doing what he was doing,” Moore stated in 2019. “I don’t know that it would have ever gotten to that point.”³ As to the reason for Zarda’s termination, it was simple: he was fired for being gay.

This is what Melissa Zarda, Donald’s sister and executor of his estate, alleges. The discrimination lawsuit—originally filed by Donald himself against Altitude Express, and posthumously taken up by Melissa—has been active for the past nine years, and has seen its ups and downs.⁴ Moore believes that Donald had relatively modest ambitions for the case; his major hope was to clear his name in response to articles such as a 2010 New York Magazine piece which alleged that he had been fired for “spooning” a female client mid-air.⁵ In reality, he had been terminated after telling a client that he had a husband in Texas.⁶ Just over five years after his death, Zarda’s case traveled all the way to the Supreme Court of the United States, where a hearing was held on October 8th, 2019, in conjunction with a discrimination case brought by Gerald Bostock. The hearing has become a national sensation, drawing the attention of news organizations and activists across the U.S.

Why has the conversation around LGBT workers’ rights converged so readily on Zarda and Bostock? The obvious answer, of course, is that any Supreme Court case carries the power to set important precedents for federal law. But is federal law truly the last frontier of the LGBT rights movement? Or can we, perhaps, look to the history of workplace activism and its intersections with gender and

significantly higher incidence rate for injuries or fatalities. While it is possible that Zarda’s death resulted from the height of his jump being inadequate for the correct utilization of his wingsuit, his partner Bill Moore indicated to Logo News in 2019 that he had no intention of pursuing legal action against the skydiving company through which Zarda had arranged his final jump.

³ Nico Lang, “Donald Zarda Was Fired for Being Gay. He Died Before the Supreme Court Could Hear His Case,” *LOGO News*, July 26, 2019, <http://www.newnownext.com/donald-zarda-supreme-court-fired-gay/07/2019/>.

⁴ “Altitude Express v. Zarda,” *Oyez*, accessed December 1, 2019, <https://www.oyez.org/cases/2019/17-1623>.

⁵ Lang, “Donald Zarda.”

⁶ Lang.

sexuality in the United States to find a more powerful tool for progress within the union? Indeed, the historical record for union activism reveals workers' solidarity, pre-emptive or independent of federal action, as a longstanding and effective front for LGBT protections. Moreover, collective action has stood and continues to stand as an effective way to address the immediate conditions of vulnerable workers— and cases like Bostock's are nothing if not immediate. During the hearing, Bostock emphasized that he had lost more than just a fulfilling job. "I lost everything," he stated. "I lost my livelihood. I lost my source of income. I lost my medical insurance."⁷ Even for white, middle-class workers like Bostock and Zarda, stability is never a guarantee. Employment discrimination can take away an individual's insurance, income, dignity, and, in the extreme case of Zarda, their life. The focus on federal action to address this problem inadvertently privileges an avenue of change which, at its best, may take years to help a fraction of affected workers— and which, at its worst, may empower the state to act oppressively against workers across the board. Ultimately, while federal protections may help LGBT workers, policy cannot supersede organizing and collective bargaining as the focus of the LGBT workers' movement.

Zarda and Bostock's cases have received massive media attention for good reason. The peculiarity of these cases rests upon the fact that there exists no definite federal protection against workplace discrimination targeting LGBT people— hence the decision on the part of the 11th circuit of the U.S. court of appeals to block Bostock's case from going forward. While there exists no exact protection, though, there is tenuous legal shelter for workers within the confines of Title VII of the Civil Rights Act; this is the point around which Zarda and Bostock's cases pivot. The argument, though somewhat roundabout, is easy enough to understand. If Title VII prohibits an employer from taking disciplinary actions against an employee "on the basis of sex," and if a male employee is fired from his job or faces other retribution from his employer for being gay, then that firing constitutes a decision on the basis of sex— assuming that a woman in the same position would not receive discipline as a result of her

⁷ Pete Williams, "Supreme Court Appears Divided over LGBTQ Job Discrimination," *NBC News*, October 9, 2019, <https://www.nbcnews.com/politics/supreme-court/supreme-court-appears-divided-over-lgbtq-job-discrimination-n1063886>.

attraction to men— and thus can be classified as a violation of Title VII. This was the conclusion reached by the Second Circuit Court which reviewed Zarda’s case and defined the employer’s actions as constituting a “subset of sex discrimination” — prompting the employer, Altitude Express, to file for an appeal of the decision.⁸ The Eleventh Circuit Court which reviewed Bostock’s case, on the other hand, concluded the opposite, dismissing an interpretation of Title VII which would include homophobia as constituting sex discrimination.⁹ Both appeals were consolidated before the Supreme Court in 2019. When a ruling comes, it will either explicitly include or permanently exclude LGBT identities from using Title VII protections.

The push for a federal confirmation of protection for LGBT workers is hardly a new phenomenon. While Bostock’s case has been active since his firing 2013, there have been significant pushes for protective legislation over the last 45 years. A response to the limitations of Title VII, and its potential as a basis for LGBT workers’ protections, came in 1974 with the introduction of the Equality Act to the 93rd Congress of the United States. Sponsored by congresswoman Bella Abzug of New York’s 20th Congressional District and drafted in collaboration with the National Gay Task Force, the bill proposed an amendment of the Civil Rights Act which would further define the limitations of “sex discrimination.” The bill specifically prohibited “discrimination on account of sex, marital status or sexual orientation” by those same institutions included under Title VII, including employers. Interestingly, the bill did not imagine these violations as being purely the jurisdiction of the EEOC; indeed, the Equality Act provided for civil actions by the attorney general against parties found to be in violation. Yet while the act addressed employment, its primary focus lay with public accommodations. It sought to prohibit discrimination in housing and federal assistance programs, as well as public facilities and education programs. Indeed, although its status as an amendment to Title VII would theoretically allow its application to matters of employment, the bill’s summary

⁸ “Altitude Express v. Zarda,” *Oyez*.

⁹ “Bostock v. Clayton County,” *Oyez*, accessed December 1, 2019, <https://www.oyez.org/cases/2019/17-1623>.

neglected to mention employment in any regard.¹⁰ Placing employment in the background of this kind of legislation is, of course, understandable. The Equality Act aimed not only to address massive sections of infrastructure through its legislation, but also to authorize and even mandate federal intervention on behalf of those discriminated against via its use of civil actions. Yet this also represents a key issue with federal policy as the primary vehicle for addressing discrimination. Employment discrimination—a matter of dire importance, and of quite literal life and death for the most economically marginalized LGBT workers—can risk becoming an afterthought, lost in the vaguery of all-inclusive legislation or roped in only via technicality through attachment to previously existing legislation.

Worse, though, is the ultimate fact of the Equality Act: it didn't work. In May of 1974, the bill was referred to the House Committee on Judiciary, where it failed to move forward. Similar pieces of legislation have been repeatedly pushed forward by legislators in collaboration with the National Gay Task Force (now known as the National LGBT Task Force) since 1974. Most of these efforts died before making it to a vote.¹¹ Federal policy takes time to change. On the longer end of the scale, legislation like the Equality Act can take decades to pass, if it passes at all. On the shorter end, Gerald Bostock's case has taken six years to reach the highest court in the U.S., and could take many more months before a verdict is delivered. Donald Zarda lived for four years after his firing; it would take another five years for his case to reach the court and be consolidated with Bostock's. Financially speaking, Zarda was in a better place than a large proportion of LGBT workers in the U.S., yet the mental toll of his job loss was ultimately a major factor in his abrupt death. As wage decreases, this kind of pressure can only compound, levying the existential crisis of lost work along with even more pressing issues of food, shelter, and health. Time is a necessity for legal change, but it is also a resource which many workers quite simply do not have.

¹⁰ Bella Abzug, "H.R.14752 - 93rd Congress (1973-1974): Equality Act," Congress.gov, May 14, 1974, www.congress.gov/bill/93rd-congress/house-bill/15692.

¹¹ "History of Nondiscrimination Bills in Congress," *National Gay and Lesbian Task Force*, May 24, 2014, <https://web.archive.org/web/20140524062405/http://www.thetaskforce.org/issues/nondiscrimination/timeline>.

To understand the failure of federal protections for LGBT workers, it may prove useful to return for a moment to Title VII, the piece of legislation on which Bostock and Zarda's cases, as well as the Equality Act, have attempted to build. Title VII operates as part of the Civil Rights Act signed into law in 1964. It is the precise wording of Title VII—its prohibition of sex discrimination, a situationally nebulous category—which has allowed it to function in any sort of protective capacity for LGBT workers. As Katherine Turk argues in *Equality on Trial: Gender and Rights in the Modern American Workplace*, Title VII was a marked departure from previous attempts to regulate gender in the workplace. Before this legislation, “protective” laws actually helped to support gendered hierarchies within the American workplace, enforcing regulations which “framed breadwinning as a masculine enterprise and construed women’s wage labor as inherently less valuable than men’s.”¹² Title VII, on the other hand, would flatly ban discrimination on several bases of identity, theoretically placing sex in the same social category as race. To do so, of course, presented significant issues for a working world in which women’s roles were seen as definitively different. While the ideal implementation of the ban on racial discrimination would prohibit any differential treatment in favor of fostering a color-blind model of employment,¹³ decades of previous regulation had done just the opposite for women, establishing them as the demure and vulnerable counterparts of their breadwinning husbands. As Turk writes, the sex discrimination ban represented nothing short of a logistical nightmare for legislators. The Equal Employment

¹² Katherine Turk, *Equality on Trial: Gender and Rights in the Modern American Workplace* (Philadelphia: University of Pennsylvania Press, 2016), 2.

¹³ It's important to note here that such a concept was just so - conceptual, and bearing little fruit in the reality of things. That Title VII failed to produce an idyllic colorblind workplace is perhaps not a failure of the specific legislation so much as an impossibility for any regulatory means to deconstruct a capital-incentivized system of racial discrimination as deeply rooted as that of American racism. The important distinction here is not what did happen, but instead what *should* happen as according to the liberal imaginary of the time. This distinction would see the conflict between gender discrimination prohibitions and racial discrimination prohibitions on the grounds that racial differences in division of labor were not as explicitly necessary in the liberal mind of the 1960s as were gendered divisions of labor. The sexual dimorphism of the workplace was a deep concern not only for policymakers, but also for women who advocated for federal workplace protections. For more on this, see Chapter 1 of Katherine Turk's *Equality on Trial*.

Opportunity Commission (EEOC), the federal agency established by Title VII to investigate and assist with discrimination claims, would find itself inundated with four thousand sexual discrimination in its first two years alone.¹⁴ The EEOC's initial response was sluggish at best; not until several years into its existence would the commission make an earnest move towards implementing and pursuing a corrective course for sex discrimination in U.S. employment.

This move came partially in the form of changing tactics. As Turk writes, the EEOC shifted its primary focus during the late 1960s away from investigations into individual claimants' situations and towards research.¹⁵ Through identifying discrimination as a quantifiable thing— rather than a collection of instances with vastly different contexts and involving vastly different participants— the process of addressing sexism in employment was streamlined. This transformation in the EEOC's primary mode of operation is indicative of another major issue with the overreliance on federal protections for marginalized workers: standardization. Though unilateralization allows agencies such as the EEOC to address a wider span of cases, it fails in addressing the individual complainants and their own urgent matters in the workplace. Standardized efforts to research and reform sex discrimination via affirmative action may produce a statistical improvement— but for those discriminated against or fired by their employers, it does little to improve their immediate lot. Further, Turk argues that the unified model adopted by the EEOC essentially railroads an individual worker's agency or personal interpretation of the situation. "Within a decade of Title VII's passage," Turk writes, "it became possible for a worker to be a victim of sex discrimination without assenting to that classification and for violations of her self-identified rights to be denied legal legitimacy."¹⁶ Such a process poses inherent limitations for complainants, particularly for those that seek remediation for alleged discrimination on the basis of their LGBT identities. If the EEOC defines discrimination across the board, as opposed to within individual cases and circumstances, then identities which fall outside the legible scope of the commission's definition— as LGBT identities very well may, depending on a handful of justices'

¹⁴ Turk, *Equality on Trial*, 14.

¹⁵ Turk, 15.

¹⁶ Turk, 16-17

political whims— thus become impossible to address without the passage of additional legislation.

While Turk is far from wholly uncritical of the state and its remedial efforts, the above argument, salient though it is, relies almost on a presumption of innocence or well-meaning. That Turk's state failed to follow through on EEOC complaints for a full two years is plainly a function of capacity; the commission was understaffed and underprepared for the workload it received in its initial years. The federal government *wanted* to help— it just couldn't. But, is this too benign an image? Turk's interpretation of the state rests largely on a presumption of earnestness, one which places the federal government as having genuinely accepted the necessity for protections against discrimination for the women of the nation. Yet a cursory review of the history of Title VII and the sex discrimination clause reveal that this was hardly the case. Indeed, the introduction of women as a protected group under the Civil Rights Act came from an unlikely source: Virginia congressman Howard Smith, a notorious racist and the leader of an anti-civil rights coalition in the House of Representatives.¹⁷ Smith's amendment was introduced absent any prior hearings or testimony on sex discrimination, a matter which had previously been totally excluded from the contents of the Civil Rights Act. While some debate exists as to Smith's precise intentions, popular historical opinion falls with the explanation that, given his record of staunch opposition to civil rights expansions, the amendment was little more than a political attack on the bill, intended to derail it while still in the House. This is the argument made by John J. Donahue III in "Prohibiting Sex Discrimination in the Workplace: An Economic Perspective," a 1989 article published in the *University of Chicago Law Review*. Donahue makes reference to the mocking tone with which Smith delivered this amendment, noting the apparently audible laughter that addition was met with.¹⁸ If Smith's play was a political sabotage, then it was not a successful one. The Civil Rights Act passed in both the House and the Senate, retaining the sex clause in Title VII. It is this history which led many to refer to the ban on gender

¹⁷ Bruce Dierenfield, "Howard W. Smith (1883–1976)," *Encyclopedia Virginia*, 2008, accessed December 5, 2019, https://www.encyclopediaivirginia.org/Smith_Howard_Worth_1883-1976.

¹⁸ John J. Donahue, "Prohibiting Sex Discrimination in the Workplace: An Economic Perspective," *The University of Chicago Law Review* 56, no. 4 (1989): 1337.

discrimination as a wholesale accident of the legislative process. In *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*, author and law professor Barry Friedman argues exactly this point. Friedman references the positions of lawmakers and politicians at the time of the Civil Rights Act's passage and shortly thereafter, quoting one director of the EEOC itself who actually referred to the sex discrimination clause as a "fluke" which had been "conceived out of wedlock."¹⁹ In Friedman's telling, the EEOC's initial inaction was not an inability to address women's complaints so much as it was a refusal. Whether we place more stock in Turk's version of events or in Friedman's, however, the reality remains the same. Federal action is a slow-going process which often fails to address individuals' desperate situations. It is a process largely dependent on the human beings behind it—human beings who at their worst may neglect or sabotage remedial action, and at the best may fail to pursue it, despite the best intentions, simply out of inability.

That state which impedes, through negligence or malice, workers' protections is certainly a threat to the improvement of marginalized workers' situations. But what about the logical extreme of this avenue? Indeed, the U.S. government has not only failed at times to assist workers, but has often been actively complicit in their oppression. Governmental violence directed as intervention on behalf of employers is no new concept in the field of labor history. From police murders of individuals, as exemplified by the death of two migrant workers preceding the Oxnard strike,²⁰ to the infamous massacre at Blair Mountain in 1921, the pre-Rooseveltian state showed little hesitation in asserting its physical dominance over workers in the bloodiest ways possible. If the modern state fails to reproduce such visible violence, though, it has succeeded in continuing to undermine the marginalized and their positions in the working world. Take, for instance, *Wal-Mart Stores, Inc. v. Dukes*, a Supreme Court case argued in 2011. Named for Betty Dukes, a greeter

¹⁹ Barry Friedman, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (New York: Farrar, Straus and Giroux, 2010), 290.

²⁰ Frank Barajas, *Curious Unions: Mexican American Workers and Resistance in Oxnard, California, 1898-1961* (Lincoln, NE: University of Nebraska Press, 2012), 133.

at a Wal-Mart location in Pittsburg, CA, the case was a class-action lawsuit which alleged that the Wal-Mart corporation's nationwide policies had resulted in lower pay and lessened upward mobility for women working at Wal-Mart stores. Filed in 2001, it took ten long years for *Dukes* to reach the Supreme Court— and less than three months between argument and adjudication for the court to side in Wal-Mart's favor.²¹ In delivering the opinion of the court, Justice Antonin Scalia addressed the case immediately as “one of the most expansive class actions ever,” making reference to the approximately 1.5 million plaintiffs involved via the charge of unilateral, nationwide discrimination. It was this very expansive nature which delegitimized the case in the eyes of the five deciding justices.

Commonality requires the plaintiff to demonstrate that the class members have suffered the same injury. This does not mean merely that they have all suffered a violation of the same provision of law. Title VII, for example, can be violated in many ways—by intentional discrimination, or by hiring and promotion criteria that result in disparate impact, and by the use of these practices on the part of many different superiors in a single company. Quite obviously, the mere claim by employees of the same company that they have suffered a Title VII injury, or even a disparate-impact Title VII injury, gives no cause to believe that all their claims can productively be litigated at once.²²

That the plaintiffs of the case had all allegedly suffered under Title VII meant nothing to a court majority which demanded commonality in the specificities of their suffering. Six years after her claim was denied, Betty Dukes passed away.²³

Wal-Mart's victory through the state meant more than just the denial of remedial efforts for those 1.5 million women believed to be affected by discriminatory corporate practices. The precedent set by the Supreme Court's decision also ensured that a case such as *Dukes*'

²¹ “Wal-Mart Stores, Inc. v. Dukes,” *Oyez*, accessed December 6, 2019, <https://www.oyez.org/cases/2010/10-277>.

²² Antonin Scalia, “Wal-Mart Stores, Inc. v. Dukes, Et Al., 564 U.S. 338 (2011),” *Justia Law*, June 19, 2011, <https://supreme.justia.com/cases/federal/us/564/338/#tab-opinion-1963630>.

²³ Michael Corkery, “Betty Dukes, Greeter Whose Walmart Lawsuit Went to Supreme Court, Dies at 67,” *The New York Times*, July 19, 2017, <https://www.nytimes.com/2017/07/18/business/betty-dukes-dead-walmart-worker-led-landmark-class-action-sex-bias-case.html>.

could never stand on the same legal footing. The court directly impeded the ability for workers to seek relief or justice against discrimination on a massive scale by disallowing the Title VII class action lawsuit, defining the plaintiff class as one which necessarily shares more than the simple violation of their rights on the basis of identity. *Wal-Mart v. Dukes* is not only an example of state action against marginalized workers, but also an instance in which a belief in the state's remedial power backfired. In the denial of the right to collectively file class action lawsuits, marginalized workers in the U.S. are more worse off from a legal standpoint than they were in the years leading up to adjudication. The trusted hand of the state not only failed to guide its vulnerable workers towards safety— it throttled them and their collective ability to seek justice.

If the state, then, is not to be trusted, what is left to a worker who faces discrimination? In the patriarchal liberal mindset of the post-Roosevelt school, the denial of the state as a kind shepherd of the meek may read as a doomsday prophecy. It is crucial to remember, though, that federal action was not, and never has been, the sole site for the development of LGBT workers' protections. Historically, women and LGBT workers have collectively organized with allies to achieve better working conditions, higher pay, and protections from harassment and discrimination in the workplace. In 1978, just four years after the Equality Act first died on the floor of the house, labor activists in California rallied in defense of gay teachers against Proposition 6. Known as the Briggs amendment, Prop 6 was a bill written by conservative California State Senator John Briggs. The proposition, if passed, would amend California's constitution, changing the state's education regulations to deny gay teachers the right to work in public schools. The bill read that "as a result of continued close and prolonged contact with schoolchildren, a teacher ... becomes a role model whose words, behavior and actions are likely to be emulated by students coming under his or her care." Under the Briggs amendment's proposed framework, the state government of California would be compelled to conduct investigations and hearings into teachers' personal lives. If found to be practicing or even simply endorsing homosexuality, whether in public or in the privacy of their own home, a teacher could then be fired without recourse.²⁴ The

²⁴ Miriam Frank, *Out in the Union: a Labor History of Queer America* (Philadelphia: Temple University Press, 2015), 89.

response to the amendment was explosive. Enraged not only by the attack on gay workers' legitimacy but also by the explicit violation of privacy which the bill entailed, opponents of the Briggs amendment rallied to create the "Vote No" campaign, hoping to sway the electorate against the damaging legislation. Backing LGBT activists in the Vote No campaign were California's labor leaders. Walter Johnson, the president of Local 1100— an IBT chapter representing retail workers— vocally supported the bill, stating during an organized labor event, "It's a matter of equal rights. They're all people; they were all babies once."²⁵ With the support of California unionists, the Vote No campaign was a success; against considerable odds, the Briggs amendment failed to pass on November 7th, 1978. Organized labor's support for LGBT educators is important to note for multiple reasons. Union leaders did not simply support Vote No out of political sympathy— the bill was a flat-out matter of workers' rights. The amendment was a direct violation of the right to collective bargaining, and leaders such as Johnson saw the destructive potential of a discriminatory policy that would apply not only to homosexuals, but to those that supported them as well.²⁶ The response to the Briggs amendment proves that labor organization as a response to LGBT employment discrimination is built on, and contributes to, worker solidarity. Further, it shows that organized labor can win significant victories for these workers using collective action.

Action in conjunction with organized labor has proven not only to be an effective way of seeking remediation for discrimination, it also often serves as a sight of cultural production for LGBT communities. Note, for instance, the Marine Cooks and Stewards Union (MCSU), an organization representing service workers on passenger liners which rose to prominence in the early decades of the 20th century. Emphasizing the importance in extending dignity and respect to all its constituent members, the MCSU stood out for its embrace of a diverse membership, accepting African American members as well as openly gay workers. It was this very union which would win the first official protections for LGBT workers, ensuring that its members could not have their employment terminated for anything other than violation of the employment contract. Gay workers were foundational to the MCSU; one member of the union

²⁵ Frank, *Out in the Union*, 91.

²⁶ Frank, 90.

stated that the majority of stewards within the union were themselves gay. In a piece for *New Socialist Magazine*, Scarlett C. Davis has noted the way in which LGBT culture was fostered and embraced through the union, describing the prevalence of drag culture within the MCSU.²⁷ Within spaces like the MCSU, new gay cultures were allowed to emerge in conjunction with the worker identity.

Even for those LGBT people not directly involved in unions, solidarity with workers has historically served to create new cultural traits and identities. In 1977, the Coors brewery in Golden, Colorado, made headlines when it began to probe into the personal sexual lives of its employees. Already known for its subpar conditions of employment, Coors' reputation of poor worker treatment reached a new low when workers publicized some of the company's standard hiring procedures. Included were the polygraph tests which potential employees were required to take. In addition to questions intended to determine qualities such as "loyalty," the tests reportedly included invasive personal questions about the employee's sexuality as an attempt to eliminate gay applicants.²⁸ Employees wanted to end the tests; in return, Coors wanted to nullify the shop agreement that had been in place since 1935 which required brewery employees to pay dues to the union to receive benefits.²⁹ The responsive strike called by Brewery Workers Local 366 in April of 1977 was, by itself, unsuccessful; but the effort found new life through the involvement of the LGBT community. As part of a nationally declared boycott of Coors beer, Teamster Allan Baird reached out to Harvey Milk, an openly gay community organizer who would soon come to be known as the "Mayor of Castro Street." Milk agreed to publicize the boycott, urging gay bars and individuals to drink alternative brands in light of Coors' poor labor practices. With Milk's help, the boycott quickly earned the support of the Tavern guild, an association of one hundred San Francisco gay bars.³⁰ The results of the boycott have been incredibly enduring. In a 2004 article for the *Journal of Consumer Research*, Stephen M. Kates identified Coors as a "brand villain" — essentially a

²⁷ Scarlett C. Davis, "Queering Labour: The Marine Cooks and Stewards' Union," *New Socialist Magazine*, July 1998.

²⁸ Russ Bellant, *The Coors Connection: How Coors Family Philanthropy Undermines Democratic Pluralism* (Boston, MA: South End Press, 1991), 66.

²⁹ Frank, *Out in the Union*, 79.

³⁰ Frank, 78.

“punished brand” whose avoidance in many gay communities is a foundational aspect to identity.³¹ While the boycott effort ultimately met little success at the Coors plant itself, it exemplifies the ability for collective action to affect and produce LGBT culture.

Despite a significant history of effective organization and cultural production, though, it seems that collective action often fails to capture the public’s attention in the same way that pushes for federal action, such as the Zarda and Bostock case, do. Though unions such as the American Federation of State, County and Municipal Employees have worked to further LGBT causes by adding protective clauses to their constitutions and pursuing remediation in response to discrimination, all eyes remain on the state.³² The Supreme Court’s decision on Zarda and Bostock’s interpretation of Title VII could either make or break federal protection for LGBT employees. A decision in favor of the plaintiffs will establish precedent at the highest judicial level, codifying these protections into federal law; a decision in favor of the employers, on the other hand, would nullify any protections for gay workers under Title VII, preventing lower courts from ruling in favor of gay plaintiffs in states without established legal protections. There is a palpable tension surrounding the case and its implications. During the October 8th hearing, Justice Neil Gorsuch, a recent appointee to the court under the Trump administration, warned that the court should “take into consideration the massive social upheaval that would be entailed” in any decision which would categorize homophobia as sex discrimination under

³¹ Steven M. Kates, “The Dynamics of Brand Legitimacy: An Interpretive Study in the Gay Mens Community.” *Journal of Consumer Research* 31, no. 2 (2004): 455–64. Kates has written brilliantly and with considerable nuance about the effectiveness of the “punished brand” in creating the American consumer activist. While I posit here that the Coors strike represents a positive force for LGBT culture, there is far more to be said on the subject of consumption and the consumer identity’s emergence within the LGBT community, especially in relation to the drift between labor and the gay liberation movement which took place over the many long years of the strike’s duration. As with any historical movement, the Coors strike had its own complexities and consequences for the parties involved, both good and bad. It was by no means a wholly and completely unifying event between the workers and the sexually marginalized in the U.S.

³² Clyde Weiss, “Celebrating Pride Month: LGBT Rights and Respect,” *AFSCME*, June 11, 2015, accessed December 6, 2019, <https://www.afscme.org/blog/celebrating-pride-month-lgbt-rights-and-respect>.

federal law.³³ At the very same time, hundreds of demonstrators gathered outside the court to show support for the plaintiffs, many holding signs promising to “fight back” in the name of gay workers.³⁴ At present, the case remains pending adjudication. To say that the state is a wholesale force against good when it comes to marginalized workers would be reductionist. Title VII, incidental as it may be, has allowed for some progress in challenging the long tradition of workplace discrimination. Yet through its encounters with LGBT identity, we begin to see its fault and the fault of any wholly legislatively-based effort to improve the situation of workers in the U.S. The process of federal change can take decades. Even at the judicial level, it may take years of waiting— a process which many do not have the time for, and which some plainly may not survive. The foundations for those scant theoretical protections which do exist are precarious at best, and a court decision this year could very well result in massive setbacks for the establishment of any LGBT worker protections at all. When we ask LGBT workers to seek remediation for discrimination through the powers of the federal government, we ask them to take a leap in the dark. Yet collective action and unionization stand as a light, forming a common, culturally productive ground through which marginalized workers may fight for dignity, for equality, and for workplace justice.

³³ Williams, “Supreme Court Appears Divided.”

³⁴ Fitzsimons, “Central Figures.”

BIBLIOGRAPHY

- "Altitude Express v. Zarda." *Oyez*. Accessed December 4, 2019.
<https://www.oyez.org/cases/2019/17-1623>.
- "Wal-Mart Stores, Inc. v. Dukes." *Oyez*. Accessed December 5, 2019.
<https://www.oyez.org/cases/2010/10-277>.
- "Bostock v. Clayton County," *Oyez*. Accessed December 1, 2019.
<https://www.oyez.org/cases/2019/17-1623>.
- "History of Nondiscrimination Bills in Congress." *National Gay and Lesbian Task Force*. May 24, 2014.
<https://web.archive.org/web/20140524062405/http://www.etaskforce.org/issues/nondiscrimination/timeline>.
- Abzug, Bella. "H.R.15692 - 93rd Congress (1973-1974): Equality Act." *Congress.gov*, U.S. Congress, 27 June 1974,
www.congress.gov/bill/93rd-congress/house-bill/15692.
- Bellant, Russ. *The Coors Connection: How Coors Family Philanthropy Undermines Democratic Pluralism*. Boston, MA: South End Press, 1991.
- Corkery, Michael. "Betty Dukes, Greeter Whose Walmart Lawsuit Went to Supreme Court, Dies at 67." *The New York Times*, July 19, 2017. <https://www.nytimes.com/2017/07/18/business/bettydukes-dead-walmart-worker-led-landmark-class-action-sex-bias-case.html>.
- Davis, Scarlett C. "Queering Labour: The Marine Cooks and Stewards' Union." *New Socialist Magazine*, July 1998.
http://newsocialist.org/old_mag/magazine/14/article04.html.
- Dierenfield, Bruce. "Howard W. Smith (1883–1976)." *Encyclopedia Virginia*. Accessed December 5, 2019.
https://www.encyclopediaofvirginia.org/Smith_Howard_Worth_1883-1976.
- Donohue, John J. "Prohibiting Sex Discrimination in the Workplace: An Economic Perspective." *The University of Chicago Law Review* 56, no. 4 (1989): 1337-368. doi:10.2307/1599677.

- Fitzsimons, Tim. "Central Figures in Supreme Court LGBTQ Discrimination Cases Speak Out." *NBC News*, October 10, 2019. <https://www.nbcnews.com/feature/nbc-out/central-figures-supreme-court-lgbtq-discrimination-cases-speak-out-n1064391>.
- Frank, Miriam. *Out in the Union: A Labor History of Queer America*. Temple University Press, 2014. JSTOR, www.jstor.org/stable/j.ctt14bsx3t.
- Friedman, Barry. *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*. New York: Farrar, Straus and Giroux, 2010.
- Hurley, Lawrence. "Georgia Man Fights for Gay Rights in U.S. Supreme Court 'Hotlanta' Case." *Reuters*. September 13, 2019. <https://www.reuters.com/article/uk-usa-court-lgbt/georgia-man-fights-for-gay-rights-in-u-s-supreme-court-hotlanta-case-idUSKCN1VY165>.
- Kates, Steven M. "The Dynamics of Brand Legitimacy: An Interpretive Study in the Gay Mens Community." *Journal of Consumer Research* 31, no. 2 (2004): 455–64. <https://doi.org/10.1086/422122>.
- Lang, Nico. "Donald Zarda Was Fired for Being Gay. He Died Before the Supreme Court Could Hear His Case." *LOGO News*. July 26, 2019. <http://www.newnownext.com/donald-zarda-supreme-court-fired-gay/07/2019/>.
- Meier, Kenneth J., et al. "Race, Sex, and Clarence Thomas: Representation Change in the EEOC." *Public Administration Review* 65, no. 2, 2005, pp. 171–179. JSTOR, www.jstor.org/stable/3542551.
- Scalia, Antonin. "Wal-Mart Stores, Inc. v. Dukes, Et Al., 564 U.S. 338 (2011)." Justia Law, June 19, 2011. <https://supreme.justia.com/cases/federal/us/564/338/#tab-opinion-1963630>.
- Turk, Katherine. *Equality on Trial: Gender and Rights in the Modern American Workplace*. Philadelphia: University of Pennsylvania Press, 2016.

Weiss, Clyde. "Celebrating Pride Month: LGBT Rights and Respect." *AFSCME*. Accessed December 6, 2019.
<https://www.afscme.org/now/celebrating-pride-month-lgbt-rights-and-respect>.

Westman, A. M. Rosén, P. Berggren, and U. Björnstig. "Parachuting from Fixed Objects: Descriptive Study of 106 Fatal Events in BASE Jumping 1981–2006." *British Journal of Sports Medicine*, 2008.
<https://web.archive.org/web/20120301214219/http://bjsportmed.com/content/42/6/431.abstract>.

Williams, Pete. "Supreme Court Appears Divided over LGBTQ Job Discrimination." *NBC News*. October 9, 2019.
<https://www.nbcnews.com/politics/supreme-court/supreme-court-appears-divided-over-lgbtq-job-discrimination-n1063886>.