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Note from the Editor

Samuel Day Fassbinder

Welcome to this, the revival issue of *Green Theory and Praxis*! After two years' delay, we have three articles for this particular issue of *Green Theory and Praxis*. Tema Milstein's piece, "Survive, Critique, and Create," works the discourses of ecopedagogy and critical pedagogy, taken from famous authors, into a framework for the enactment of social change taken from O'Sullivan's (2002) essay "The project and vision of transformative education: Integral transformative learning." The result should be of some significance for teachers wishing to build activist components into their classroom practices. James Joss French's piece "Creating Eco-Social Culturally Responsive Educators With Community" suggests important possibilities for teachers who intend to teach local community culture in public school classrooms bound by testing and standards mandates, contrary to the hegemonic dictates of programmatic initiatives such as Race to the Top or the No Child Left Behind Act. Giancarlo Panagia's "Internal Colonialism in Fort Belknap" is an in depth, philosophically-astute description of colonial oppression of native peoples in Montana in various stages of their integration into the "mainstream" of life in the United States. Also included in this issue are two wonderful book reviews, of Matthew Klingle's environmental history of Seattle and Jason Peters' edited volume on Wendell Berry, by Jeffrey Bilbro and Audrey Streit Krug respectively.

In forthcoming issues we will be soliciting manuscripts far and wide, including book reviews. Manuscripts which come into the possession of the editorial team at Green Theory and Praxis must be of activist scope, in defense of what feminist author Elizabeth Janeway calls the "powers of the weak" in a book of that name (*Powers of the Weak* (Alfred A. Knopf: New York, 1980). Janeway's book is of course primarily, and importantly, about women – but here we will take the idea of "the weak" to be diversified, to include all those who see themselves on the other end of interactions with those who self-importantly see themselves as the possessors of "power" – women, children, the disabled, and animals. As the machinations of power have metastasized with the evolution of technology and with the spread of capitalist society and the imposition of capitalist discipline upon both society and nature, it becomes increasingly necessary for the users of intellectual discourse, including academic discourse, to agitate in favor of the "have-nots," those at the bottom of the hierarchies of power. We here also aim to scrutinize the methods of exercising power among those who most famously regard themselves as its possessors – weapons, money, property, and gender/class/race/ability privilege. Janeway's book in many senses was meant to diversify definitions of power by including "powers of the weak" among our collective purview.

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Survive, Critique, and Create: Guiding Radical Pedagogy and Critical Public Scholarship with the Discursive Guideposts of Ecopedagogy

Tema Milstein

Introduction

This essay explores the shared characteristics of ecopedagogy, radical pedagogy, and critical public scholarship in order to explicate directional guideposts for scholars and students wishing to engage in promoting environmental and social justice through their pedagogy or scholarship. I look to practices of transformative education for a core framework to connect students and teachers to understanding, critiquing, and struggling with forces at work in their communities and within global systems. In order to illustrate, I borrow terms for these guideposts from O'Sullivan's (2002) three discourses of transformative education: survive, critique, and create. These guideposts are interrelated and, though separated into three characteristics with multiple facets, can be viewed as interdependent. Under the survive guidepost, I investigate facets of contextualization, development of a critical moral character, the pain that often accompanies paradigm shifts, and the building and recognition of community and interrelatedness. Under the critique guidepost, I explore critique at two levels: the level of scholars and the level of their publics and students. Under the create guidepost, which engages both the material and spiritual creative contexts, I elucidate three elements: activism, transformation, and the creation of sites of change. In identifying and exploring these guideposts, I provide examples and build details into core ecopedagogy frameworks that I believe can serve as guiding characteristics in illustrating functional radical pedagogy and public scholarship in practice. [1]

This essay begins with the assertion that scholars are engaged in an ongoing struggle to define and effectively deliver radical pedagogy and its sister practice, critical public scholarship. Whereas academics have performed both radical approaches to education and public service in one form or another since the earliest origins of the institution of higher education, I argue that discussions of definitions and delivery often overlook or sidestep fundamental shared characteristics of radical pedagogies and public scholarship practice. These shared characteristics, which are embedded in philosophies and practices of ecopedagogy, are relatively straightforward, and can serve as directional guideposts for scholars and students wishing to engage in promoting environmental and social sustainability and justice through their pedagogy and scholarship.

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Ecologically focused practices of transformative education clearly map core underlying characteristics that connect students and teachers to understanding, critiquing, and struggling with forces at work in their communities and within global systems. These underlying characteristics serve as guideposts that offer a way out of the general collective silence on environmental issues from generative critical pedagogues such as Freire, and map an ecocultural path forward sprung from the writings of some of his contemporary champions (e.g., Bowers 2005; Kahn 2008). In order to illustrate, I borrow terms for these guideposts from Edmund O'Sullivan's (2002) three elements of transformative education: survive, critique, and create. These guideposts are interrelated and, though separated into three characteristics, are interdependent.

In what follows, I illustrate ways these ecopedagogy guideposts can be used to ground functional radical pedagogy and critical public scholarship. Under the survive guidepost, I investigate facets of contextualization, critical moral character, paradigm shifts, and community and interrelatedness. Under the critique guidepost, I explore critique at two levels: the level of scholars and the level of their publics and students. Under the create guidepost, which engages both the material and spiritual creative contexts, I elucidate three elements: activism, transformation, and the creation of sites of change.

Survive

We begin, fittingly, with the guidepost of survival, a characteristic with four facets: the contextualization of issues so they can be understood within a complex whole, the development of a critical moral character, the pain that often accompanies paradigm shifts, and the building and recognition of community and interrelatedness. In order to both contextualize and investigate the facet of development of critical moral character, we can turn to an overview of the historical trajectory of development of the university in the United States. The goal of the early American universities, in their progression from religious sponsorship to government sponsorship, was to instill excellent moral and, later, civic character. Ecopedagogy, radical pedagogy, and public scholarship might be seen to fit into a transformed present day of this trajectory in their roles in instilling a critical moral character to aid the survival of human societies and, via ecopedagogy, Earth as a whole.

Contextualization and Developing a Critical Moral Character

The goals of early American church-sponsored universities were to train those who were to tend to public affairs for the community. The universities had as their stated aim to train the elite to be religious and civic leaders by teaching them accepted truths of the classic and religious texts, nurturing their political capacity for reflection, and instilling within them an excellent moral character. The definition of an excellent moral character was provided by the church and the classic texts at this early stage of higher education, and the student was expected to accept this definition and follow its code (Snyder 1998).

Thomas Jefferson encouraged changing the emphasis from the church to the secular state to supply students of the 19th century with a common set of moral values, a new secular civil religion. Theodore Roszak (1968) points out that for Jefferson the purpose of the academy was to exercise an independent criticism of those forces of church or state that "fear every change, as endangering the comforts they now hold" (p. 5). The university was to unmask the church's and

state's usurpation, and monopolies of honors, wealth, and power, but perhaps not surprisingly Jefferson's ideal of independent criticism never proved acceptable to "the forces of church, state, or corporate wealth which were to dominate the funding of higher education" (pp. 5-6). In the 19th century, the land-grant movement changed the emphasis from morality to the more communication-oriented goals of reflection and community problem solving. By the early 1900s, however, universities saw science bring in the core notions of objectivity and professionalization, shifting the focus away from a philosophical and values-based approach to life. At the same time, the discipline of political science championed the notion of the existence of a so-called irrational public.

The process of professionalization and specialization in university education accelerated through the present, and served to erode the university's role in teaching students to understand the world as a complex whole. I suggest the same movements currently regarded as ecopedagogy, radical pedagogy, and critical public scholarship can provide a counterweight to this erosion by providing teachers, students, and the public with both critical contextualized interdisciplinary lenses through which to understand the world as a complex whole and a moral character for which to strive.

As the elite student body has been replaced with an exceedingly, though not perfectly, heterogeneous one, accompanying this shift in population has been an increased emphasis on contemporary critical approaches to knowledge and curriculum that reflect the new student body (e.g. feminism, queer theory, critical race theory, etc.) and the students' budding interests (e.g., interdisciplinarity and sustainability-focused programs). These new approaches offer both a contextualized critical lens and what I term a "new morality." Whereas this new morality is in some ways very different from the morality offered by the church or the secular state, it also has similarities. Critical and systems-focused studies introduce a normative approach to education and perceptions of reality. As opposed to the fragmented results of professionalization or the often apolitical stances of postmodernist extreme relativism, these new epistemologies (e.g., ecofeminism) offer a contextualized moral lens grounded in diverse experience. Importantly, instead of prescribing moral character, ecopedagogy, radical pedagogy, and public scholarship can be designed to provide tools that help students build their own notions of moral character grounded in methods of contextualization and critique.

For many critical public scholars and radical educators, the appropriation of "morality" in the rhetoric of religious extremists and its use by government leaders as justification for unjust actions has relegated "morality" to the status of a dirty word. But the morality I speak of as being offered by ecopedagogical frameworks is not that of a moral high ground. Instead, this new paradigm of moral character is inclusively egalitarian, focused on reciprocity and interrelatedness, and dedicated to unveiling forces of power behind socially constructed and materially experienced realities. It is within a contextualized unveiling of structures of domination, such as transnational capitalism, that moral character is often built.

Ecopedagogy, therefore, foregrounds the imperative of understanding complex local and global issues as intricate parts of a systemic socio-culturally caused ecological crisis. Ecopedagogy contextualizes dominant, globalized Western discourse in light of Cartesian social norms that consider human existence, consciousness, and spirit as independent from and above nature. It reveals discourse as embedded in the onslaught of the global market and as embedded in "environmental devastation, human rights violations, the hierarchies of race, the prevalence of violence, the idea of technological progress, and the problem of failing economies" (O'Sullivan 2002, pp. 4-5). Indeed, understanding these issues in isolation threatens survival of "Earth in its

total context – one that encompasses the planetary and cosmological context as well as the human and the larger biotic species context" (p. 5). In facing these profound and interrelated issues of survival, three learning aspects often arise that are not ordinarily identified within instruction or scholarship: denial, despair, and grief.

Experiencing the Pain that Comes with Paradigm Shifts

The processes of ecopedagogy, radical pedagogy, and public scholarship can be painful for those involved. Students, scholars, and the public may feel denial, despair, or grief in making the connections among their own actions, the systems they take part in, and the destruction of the environment, as might others involved in shifting different paradigms. bell hooks (1994) writes that she both recognizes and respects the pain that comes with challenging one's very concept of self and reality. She discusses this possibility with her students when they begin to grapple with the issue of racism. "White students learning to think more critically about questions of race and racism may go home for the holidays and suddenly see their parents in a different light. They may recognize nonprogressive ways of thinking, racism, and so on, and it may hurt them that new ways of knowing may create estrangement where there was none" (p. 43).

Deep ecologists Joanna Macy and Molly Young Brown (1998) practice a form of transformative learning in their work with the public that they term the "work that reconnects." They address the awakening of the type of discomfort associated with paradigm shifts and argue for the need to recognize that our minds and hearts can be numbed or deadened through repression of our very pain for the world. In their work, they direct participants to look at the consequences of this repression both for themselves and the Earth. Macy and Brown lead participants through experiences and dialogues that reveal the pain as springing forth from human interconnectedness with all beings, and also reveal that from this interconnectedness also arises powers to act on other beings' behalf. They assert that the unblocking occurs when our pain for the world is not only intellectually validated but experienced. Their approach can serve to further inform the critical moral character facet of survival: compassion (the recognition and experience of our pain for the world) and insight (the recognition and experience of our radical, empowering interconnectedness with all life).

Similarly, hooks gives her students the opportunity to share their experiences to see they are not alone in the pain they feel as they go into the wider world and face family's and friends' reactions to the paradigm shifts they experience as critical learners. She points out that it is in dialogue with one another and with others who have not been exposed to the paradigm shift (shifts such as the pain and interconnectedness that comes from recognizing and rejecting racism or sexism) that her students are able to practice integrating theory and practice, or integrating their ways of knowing with their habits of being. This emphasis on growth through interactivity reflects Freire's (1970/2000) problem-posing technique of radical pedagogy and disrupts the traditional banking method of education in which teachers deposit knowledge into students as if they were receptacles. Instead, these instances of pedagogy involve cooperative dialogues in which humans dialogically engage with problems that directly involve their relations with the world.

Ecofeminist scholar and teacher John Paul Tassoni (1998) warns that, if the traditional banking method is used in ecopedagogical approaches, little actual growth may occur as the necessary growing pains themselves may not occur. In traditional classrooms, even students who learn to value radical insights lectured about by the teacher may avoid genuine dynamic

paradigm shifts and instead simply replace one set of received truths (e.g., patriarchy) with another (e.g., ecofeminism), leaving the new truths as resistant to change and as intolerant of difference as the former. Another danger of having students reach such a non-dialogic or surface understanding of ecofeminist or ecocritical ideas is that "they come to it without having to develop the rhetorical capacities to interact with others as speaking subjects" (p. 209).

Building and Recognizing Community and Interrelatedness

The survival, or integration, of such paradigm shifts seems then to be dependent upon a dialogic generation of critical moral character, or what hooks' terms the integration of ways of knowing with habits of being. This practice of sharing experiences, of dialogue, can be seen as seeded and nurtured by different instances of ecopedagogy, radical pedagogy, and public scholarship. hooks points out that it is through this process of sharing experiences and integrating theory and practice that we also build community. Such community, which can be seen in the recognition of the interrelatedness of people, of beings, and of phenomena of the Earth, is referred to by Dr. Martin Luther King (1969) and further related to social action in his letter from Birmingham jail in which he wrote to clergy who had denounced his group's actions. "I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny: whatever affects one directly, affects all indirectly" (p. 62). Indeed, many scholars and educators see as necessary for survival the overcoming of individualist and dualistic ideas that have informed much conventional scholarship and pedagogy.

James Selby (2002) introduces the concept of radical interconnectedness and the model of free-form dance to illustrate this interconnectedness. With the dance model, entities "are not primary, solid, or separate. The relationship becomes primary, and the entity is itself a secondary manifestation" (p. 82). The implications of radical interconnectedness for radical pedagogy and public scholarship might be that participants are directed to take a both/and approach rather than an either/or approach to ongoing debates such as whether to have local vs. global focus; to move beyond the mechanistic sense of the individual to allow for feeling, senses, connection, and spirituality; to engage in multi-dimensional ways of knowing that combat an overemphasis on reason, thought, analysis, and objectivity by reclaiming emotion, subjectivity, bodily sensibility, intuition, empathy, and relational and spiritual sensibility as means of knowing; and to recognize they as scholars and educators are part of a wider community of multi-cultural, countercultural, biodiverse, and liberationist forces and that new coalitions and alliances are necessary.

Critique

O'Sullivan (2002) argues that in the survival mode, the focus is on dealing with a profound cultural pathology that requires a deep cultural therapy. An integral part of this therapy is a focus on transformative modes of cultural criticism that raise awareness. Therefore, focus in the critique guidepost is on bringing to light the highly constructed lens of Western civilization. Here, too, critique introduces alternative lenses shaped by alternative realities, histories, and futures. Critique must happen at at least two scales: the level of scholars and the level of their publics and students.

Critiquing as Scholars

Roszak (1968) wrote in the 1960s of the lack of critique among scholars in the academy. He argued most professors' dedication to prestige, comfort, and money took the place of their dedication to critique and reform. "The academic life may be busy and anxious, but it is the business and anxiety of careerist competition that fills it, not that of dangerous venture. So it is by and large outside the boundaries of the academic profession that our students must look for the defiant minds of our time" (p. 4). What Roszak identified as passing for public scholarship at the time often passes for the same in contemporary times. Roszak pointed to public scholars' collaboration "in genocide, espionage, deceit, and all the corruptions our government's sense of omnipotence has led us to. 'Service,' by becoming a blanket willingness to do whatever society will pay for, has led the university to surrender the indispensable characteristic of wisdom: moral discrimination" (p. 12).

Noam Chomsky (1968) pointed to a similar style of public scholarship during the same Vietnam era and during WWII, in which intellectuals with Washington contacts tended to be uncritical of government action and often damning of those who were critical. These social scientists for whom, according to Chomsky, honesty, indignation, and sentimentality did not exist cannot be dismissed as a thing of the past. The same type of public intellectual still thrives today in the form of establishment public intellectuals who, for instance, unquestioningly support and legitimize U.S. policy. For instance, a recent article in the *New Yorker* profiled Bernard Lewis, an academic with a distinguished career at the University of London and Princeton, who "in short, is a thoroughly political don, and if anyone can be said to have provided the intellectual muscle for recent United States policy toward the Middle East it would have to be him" (Buruma 2004, p. 184).

Edward Said (1981) defines the "orthodox coverage," or the dominant scholarly discourse that Roszak and Chomsky critique above, as knowledge "whose affiliations with power give it strength, durability, and above all *presence*" (p. 149). He differentiates this form of knowledge from "antithetical knowledge," which he describes as produced by scholars who consciously consider themselves to be writing in opposition to the prevailing orthodoxy. For these critical, or antithetical, scholars, knowledge "is essentially an actively sought out and contested thing, not merely a passive recitation of facts and 'accepted' views" (p. 152).

In contrast to public scholars who bolster established power regimes, critical public scholars dedicated to antithetical knowledge work to expose and question the dominant discourses, or lenses, of society. Said (2002) in later writing characterizes these dominant discourses as having as their goal "to fashion the merciless logic of corporate profit-making and political power into a normal state of affairs … in the process rendering rational resistance to these notions into something altogether and practically unrealistic, irrational, and utopian" (p. 32). In opposition to these discourses, critical scholars, as well as ecopedagogists and radical pedagogists, work to dialectically uncover and elucidate the contest between a powerful system of interests and less powerful interests threatened with frustration, incorporation, or extinction by the powerful, as well as to challenge and defeat the imposed silences and normalized quiet of unseen power.

Critiquing as a Public and as Students

To aid in the creation of a critical public, Antonio Gramsci (1916-1935/1988) argued that traditional intellectuals, or those he defines as imagining themselves as independent of ruling groups but who in actuality are conservative and allied to the ruling group in society, have to be brought over to the revolutionary side, the side Said would typify as being concerned with antithetical knowledge. Additionally, Gramsci's organic intellectuals, or intellectuals who within their social groups serve as the groups' thinking and organizing element, must be developed within the working class to foment critical thought among this same working class public.

Much like Gramsci's notion of developing the organic intellectual, Paulo Freire's (1970/2000) problem-posing education, which became the model for critical pedagogy, uses generative themes to create transformative learning opportunities that grow directly out of the experience of students and oppressed publics. Freire argued for education as a means to the ends of critical public consciousness and action. In his work, he was in dialogue with teachers of the illiterate working class and peasants, as well as with revolutionary leaders. He warned teachers against banking education and leaders against banking leadership as both approaches serve to replace oppressive structures with similarly oppressive ones. According to Freire, *conscientizacao*, or critical consciousness, is necessary for freedom, and he argued that when leaders, scholars, the public, or students speak of the dangers of critical consciousness, we reveal our own fear of freedom or the fear of seeing oneself as a subject not an object.

In the 1960s, it was largely students who exercised initiative in demanding that a critical social relevance should be an integral part of their education. Less known is that in the early 19th century it was also students who formed extracurricular literary and debating societies to critically study and debate issues, bringing the time's controversial speakers, such as Ralph Waldo Emerson, to campuses. While some contemporary students demand a critical education today, the call seems to have significantly quieted. This could be partly due to the influx into the academy as professors of many of those same students who exercised their initiative in the 1960s, with the result of an infusing of more socially relevant critical approaches within many of the disciplines.

A notable exception to a general quietness on campus from contemporary students, however, is the rising demand for socially relevant investigation and critique of the interrelationships of ecological and cultural issues. Students passionate about these issues have seen cultural studies and critical studies as limited in their focus primarily on solely human society (Morrell and O'Connor 2002). In expanding the focus to see human issues as systemically interrelated to environmental issues, ecopedagogy strives to respond to student demand by engaging "in the generation of energy for radical vision, action, and new ways of being" (p. xvii).

Create

Within the creative aspect of transformative learning, O'Sullivan (2002) writes that educators must emphasize both planetary and spiritual contexts. The planetary context is imperative for both the critical and creative guideposts to articulate effective challenges to the hegemonic culture of globalization and market vision and to generate global biospheric orientations to support and restore an environmentally viable world. Further, the spiritual

context must be allowed and even encouraged in pedagogy to counter mainstream education's eclipse of "the spiritual dimension of our world and universe" (p. 10).

Spirituality has been seriously compromised by its identification with institutional religions and by the values of the market. O'Sullivan writes that fundamentals of spirituality such as "leisure, contemplation, and silence have no value in this system because none of these activities is governed by the motivation of profit" (p. 10). This sentiment is echoed and underlined by critical public scholar Cornel West (2004) in a statement he made to a public audience gathered at Seattle's AME church: "Profit is not just the bottom line, but the only line."

Robin D. G. Kelley (2002) argues that spirituality is needed if public scholars and radical educators are to do what the best progressive social movements do, which is to not simply produce statistics and narratives of oppression, but also to "do what great poetry always does: transport us to another place, compel us to relive horrors and, more importantly, enable us to imagine a new society" (p. 9). This sort of spirituality can serve as a font for the energies of interrelatedness, love, and imagination, respecting each as a powerful social force. Both the planetary and spiritual contexts inform the three elements of the creative discursive guidepost: activism, transformation, and the creation of sites of change.

Performing Activism

The creative forces of activism can, but do not necessarily, follow from the critical guidepost. As I envision ecopedagogy-informed critical public scholarship and radical pedagogy in this essay, however, creative forces that engage and change the world are a necessary and interrelated characteristic. Whereas critical work takes a position on and provides a theoretical understanding of the systemic ways in which social relations are constructed and could be constructed, some critical scholars and educators take the next step, which is to move from uncovering and explaining contradictions in the world to doing activist scholarship dedicated to resolving those contradictions and to bringing about actual change (Kobayashi 2001).

Freire (1970/2000) points out that critique is a precursor for this creative liberating action: "In order for the oppressed to be able to wage the struggle for their liberation, they must perceive the reality of oppression not as a closed world from which there is no exit, but as a limiting situation which they can transform" (p. 49). He argues that true reflection and critique are not elements of an armchair revolution, but, on the contrary, true reflection inevitably leads to action.

In the lives of many contemporary critical public scholars, creative activism has taken the form of social protest. Just as Chomsky (1968) wrote that it "is the responsibility of intellectuals to speak the truth and to expose lies" (p. 256), as well as their duty to see and present events in historical perspective, these responsibilities and duties have driven many scholars to take part in social protest. Howard Zinn (1982), for instance, writes of his involvement in protests during the Civil Rights Movement and the Vietnam War. "I did not think I could talk about politics and history in the classroom, deal with war and peace, discuss the question of obligation to the state versus to one's brothers and sisters throughout the world, unless I demonstrated by my actions that these were not academic questions to be decided by scholarly disputation, but real ones to be decided in social struggle" (p. 16). Zinn contrasts his critical activist path with that of non-activist critical scholars, whom he terms "the jet-set Marxists, the mandarins of revolutionary theory, who, whenever there is a call to walk on a picket line, are en-route to an international

conference on the withering away of the state" and who he claims, by such example, teach "the most sophisticated technique of safety" (p. 16)

David Barsamian and Noam Chomsky (2001) outline the risks involved in being an activist critical scholar, or what they call a "dissident intellectual." They write that in wealthy Western societies dissident intellectuals are not murdered or violently repressed, unless perhaps the intellectual is a minority leader. But there are other, less violent risks one must face, such as not being accepted by or receiving praise from the mainstream intellectual community, not having one's books reviewed, or not landing or keeping great jobs. "Both of us can name plenty of people who were simply cut out of the system because their work was too honest. That blocks access" (pp. 169-170).

On the other hand, with the loss comes a gain in access to other spheres. hooks (1994) writes of her decision to elucidate a feminist theory that "strives to speak to women, men and children about ways we might transform our lives via a conversion to feminist practice" (p. 70). In striving to reach as many readers as possible in as many different locations she made the political decision to write without using conventional academic formats. While her work is sometimes not viewed by establishment academia as scholarly, a result is her work is accessible to the public and the public accessible to her. (She gives an example of letters from incarcerated Black men who read her work, identify themselves in her descriptions of constructs of manhood and identity within a patriarchal structure, and, in turn, teaching other prisoners to unlearn sexism.)

Promoting Transformation

The transformative aspect of creation is also central to activism, but can be seen perhaps more directly in an exploration of the transformation of self, the transformation of society, and the transformation of education.

Promoting Self-Transformation

hooks argues teachers must be committed to self-actualization in themselves if they are to promote the same in their students. Both hooks (1994) and Freire (1970/2000) point out that in education, as in society, bourgeois structures promote a dualistic split between mind and body. They detail how this compartmentalization affects a view of students' minds as receptacles to be filled and leaves little room for a holistic view of learning as personal growth. hooks speaks of a deep inner anguish she felt during her student years, a pain that returns as she listens to students express concerns they will not succeed in academic professions "if they want to be well, if they eschew dysfunctional behavior or participation in coercive hierarchies. These students are often fearful, as I was, that there are no spaces in the academy where the will to be self-actualized can be affirmed" (p. 18). hooks argues, however, that students should continue to demand that the knowledge engaged within the classroom is meaningful, connects to their overall life experiences, and enriches and enhances them as individuals. In a radical holistic education, both students and teachers take risks and both grow and are empowered by the process.

Eco-educator Stephanie Kaza (1999) relates the tension between students' often individualist self-absorption and the importance of looking inward to attain self-actualization. She points out that students mirror the despair, denial, and self-absorption of the culture around them, even while at times "their favoring of the subjective can feel overly self-referential, almost

indulgent, ahistoric in a way" (p. 145). Kaza works with the power and tension of subjectivity and uses it as a base for promoting social justice. "I sense that at the core of their self-absorption is a yearning for wholeness, a desire to free themselves from the relentless assault of fragmenting, soul-stealing influences – television, advertising, consumerism, urban development" (p. 145). Kaza points to the sense of internal strength and self-knowledge that students crave from their education as foundations they need if they are to feel they can make useful contributions.

The ecology, or set of essential relationships and principles, that guides what Santa Clara Pueblo member and scholar Gregory Cajete (2004) characterizes as Native American education both supports and nourishes internal strength and self-knowledge. Cajete writes: "In the Tewa language we often refer to the process of gaining an education in the same way as we refer to 'breathing in life' or 'to be with life.' This inherent linguistic connection of the process of education to life itself is no accident since the very nature of any true educational process is developmental and transformational" (p. 104). Cajete recommends certain styles of indigenous education as models to effectively maintain, evolve, enhance, and nourish life through the learning process and to avoid the commodification and standardization of life that often leads to repression of deeper levels of meaning and connection.

Echoing the spirituality context, Cajete details how education can provide a process wherein students are aided in finding their selves and their relationships with the wider world, are able to find "their heart" or the passion that allows them to energize things they feel are important, and are propelled toward the kind of vocation or foundation that enables them to express most fully who they are. This educational process of helping people express their "face," "heart," and "the authentic truthfulness of their being" within broader concentric contexts of social and ecological relationship is finally aimed at helping people achieve a fourth goal of "becoming complete."

Promoting Societal Transformation

Chomsky (1968) argues that when "we consider the responsibility of intellectuals, our basic concern must be their role in the creation and analysis of ideology" (p. 274). Through this creation and analysis, which is necessarily interrelated with critique, critical public scholars seek societal transformation. Examples of such critical public scholarship approaches might be critical media literacy and deep ecology. Each approach can be seen to have its roots in a thorough, historicized, and contextualized critique of the media and the human relationship with nature respectively, and each approach can also be seen as a creation of a new way of seeing the world. More recently, Antonio Lopez (2012) has pointed to ways these two schools of thought must be integrated if we are to create real societal transformation – arguing media producers and consumers must recognize media's impacts on the environment, adopt an ecologically ethical framework, and shift practices.

Transforming Education

The major transformation offered by radical pedagogy is from the traditional banking system to an engaged, problem-posing, activist process of learning. This transformed practice of education makes visible and gives value to aspects of learning that before often were invisible or squelched in the classroom – aspects such as multiculturalism (instead of biases that uphold

imperialism, sexism, and racism), bodies (instead of the patriarchal mind-body dualism), emotions such as passion and affection (instead of intellect-emotion dualities), pleasure and excitement (instead of the seriousness assumed essential to traditional learning), and mutual responsibility (instead of teacher as sole authority and educator) (hooks 1994; Orr 1996).

In engaging the more than human world, and in making visible and giving value to nature (instead of in reproducing culture-nature binaries), a further transformation is offered by ecopedagogy. The seed of transformative education plants its roots in the contexts of two relationships, both of which are in disarray – humans relating with one another and humans relating to the natural world (Cajete 2004). Ecopedagogy recognizes that institutions of higher education tend to not be centrally concerned with prospects for environmental survival. Because of this, eco-educators often focus on overhauling and transforming the institution of higher education as a starting point.

David Orr (1996) offers approaches at the scale of the classroom that allow students to bring about transformations. While in a class, students cannot solve climate crisis, but they can begin to comprehend the problem and work to solve causes and symptoms of the crisis on their own campus by working to increase energy efficiency or introducing better recycling programs. "In the process, they learn that many things that appear to be hopeless are, in fact, amenable to reason, effort, and an ecologically disciplined intelligence" (p. 22). Also in the process, students learn how to analyze problems in order to render them solvable, to arrive at a more reasonable view of power by having to help identify solutions, and to provide results that lead to positive change and provide the best antidote to despair in the face of seemingly overwhelming problems.

Creating Sites of Change

The final aspect of the create guidepost is the creation of alternative public spheres, or sites of change. Both ecopedagogy and radical pedagogy clearly engage in creating alternative spheres by offering learning experiences that dim or erase the lines between the institution of academia and the public and creating spaces to engage in bringing about change. Henry Giroux (2001) sees radical pedagogy as an alternative public sphere in itself and as a central category in the development of other alternative spheres. The critical liberatory approach to education recognizes the academy is not a paradise, but that the experience of learning is a place where paradise can be created. As such, the "classroom, with all its limitations, remains a location of possibility" (hooks 1994, p. 207).

Ira Shor (1996) provides a practical an example of situating the classroom itself as a site of change. An experienced critical educator, Shor tried an experiment with a course on "utopias" at the College of Staten Island with his predominantly white working class students who "tend to be achingly traditional and proudly insubordinate at the same time" (p. 2). Shor's offer to relinquish unilateral authority and share power at the very start of the term threatened to dissolve his class, but evolved over time into the creation of a site in which students and teacher grappled with possibilities of shared authority for learning and growth. His offer introduced uncertainty to the classroom and a liberating lack of the established ground from which students had learned to resist the learning experience.

hooks (1994) looks to another issue of certainty or safety in the classroom and speaks of disrupting the exclusionary control that traditional teachers brandish to provide a "safe" environment, and instead recommends allowing conflict to exist in the classroom to create a truly inclusionary learning environment. Whereas a traditional teacher's "unwillingness to approach

teaching from a standpoint that includes awareness of race, sex, and class is often rooted in the fear that classrooms will be uncontrollable, that emotions and passions will not be contained" (p. 39), hooks argues whenever teachers address subjects students are passionate about there is a possibility of confrontation. She also argues students, especially members of marginalized groups, may not feel at all "safe" in what appears to be a controlled, neutral setting. A goal of transformative pedagogy then is in making the classroom a setting where everyone feels a responsibility to contribute.

In Closing

In identifying guiding characteristics that are central to ecopedagogy, I have attempted to demonstrate how these three guideposts – survive, critique, and create – can also serve to direct core functions of effective radical pedagogy and critical public scholarship. These heuristic guideposts point to multiple and varied paths to promoting both ecological and social sustainability and justice through pedagogy or public scholarship. They also illustrate how ecopedagogy practices can provide a core framework to connect scholars, teachers, and students to understanding, critiquing, and creatively transforming ecocultural issues.

Indeed, these guideposts provide ways forward from the ongoing struggle within radical pedagogy and critical public scholarship to (re)define form and to effectively practice locally and globally salient education and academic activism. If one starts from the assumption that ecological and social health are intertwined, what must follow are knowledges and practices of ecological survival, cultural critique, and restorative and sustainable ecocultural creations. At the core of these knowledges is the new moral character I promote in this essay: rooted in pedagogical methods of contextualization and critique, focused on reciprocity and interrelation, and dedicated to unveiling and redirecting the forces behind our material and symbolic realities.

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Creating Eco-Social Culturally Responsive Educators With Community

James Joss French

School Leaves Community

In the United States an exclusion of local community culture, skills, knowledge and language from schools can be traced back to 1872, where the U.S. Bureau of Education in their *Circular of Education* dossier considered how allowing community culture based learning to continue with a non-standardized, non-mandatory form of schooling might "retard the growth of industry" by enabling laborers to "perceive and calculate their grievances" in factories and the fields. From this stance, in 1888, with industry interests in mind, the U.S. federal government took formal action. The Senate Committee on Education issued a report which stated, "We believe that [localized] education is one of the principal causes of discontent of late years manifesting itself among the laboring classes" (Kick, 2003).

Dewey, with publication of his pedagogic creed in 1897, was one of the first faithful servants for the Senate committee's new 'progressive' standardized order of mass schooling. He wrote, "I believe that every teacher should realize the dignity of his calling; that he is a social servant set apart for the maintenance of the proper social order and the securing of the right social growth" (p. 18). Perhaps partially blind to the choices or constructs he himself was supporting, Dewey was following suit, putting his ingenious abilities to work for the industry ownership class. Mr. Dewey was, like so many educators convinced to do so after him, following status quo and maintaining the social order of the time.

While certainly no conscious intent may have been intended by educators using Dewey's ideas to enhance students' learning experience, they were doing so within a standardized order of schooling (Hofstadter, 1963). At the expense of local cultural traditions and ecology, educators' mindsets within a market paradigm held sway as industrialists poured money into a prescribed order of forced public schooling. In a 1906 letter from Rockefeller's General Education Board document, *Occasional Letter Number One*, supporters from government, academia and finance made their market enclosure manifest explicit.[2]

> In our dreams...people yield themselves with perfect docility to our molding hands. The present educational conventions [intellectual and character education] fade from our minds, and unhampered by tradition we work our own good will upon a grateful and responsive folk. We shall not try to make these people or any of their children into

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philosophers or men of learning or men of science. We have not to raise up from among them authors, educators, poets or men of letters. We shall not search for embryo great artists, painters, musicians, nor lawyers, doctors, preachers, politicians, statesmen, of whom we have ample supply. The task we set before ourselves is very simple...we will organize children...and teach them to do in a perfect way the things their fathers and mothers are doing in an imperfect way (Gatto, 2000, p. 45).

Unfortunately, schooling bereft of local community culture has only escalated for both our children and teachers today. Continued to be driven largely by corporate special interest groups and government lobbyists manipulating educational practice for profit, buttressed by bogus research and rhetoric (Shor, 1992), U.S. schools have increasingly been driven by narrow agendas and definitions of what student achievement should or could be (Amrein, 2002; Sacks, 1999). With federal policy like *No Child Left Behind* and *Race to the Top* holding public schools in check, schools of education have followed suit, limiting what teachers must be able to do to foster myopic parameters of student achievement. The importance of critical multicultural education is being diminished alongside hollow remediation reform and high stakes standardization. Implementation of alternative community-practice based education programs, like EcoJustice Education, for our teachers and thus their students are not only becoming increasingly difficult to do within this climate, they are being pushed out as superfluous.

Definitions of education in schooling must continually readapt and transform challenging rhetoric to embrace all students, their teachers and our current non-sustainable social and ecological realities. Rather than reinforcing a failed market-enslaved edict, needed are teachers who can think systemically and act from an "ecology of mind" (Bateson, 1972) - where governmental and science based 'solutions' of carbon credits and geo-engineering can be seen as propagators of the same industrial mindset; or where educational 'reform' through standardized high-stakes testing can be seen as advancing a competitive agenda that undermines common cultural and environmental community interdependence. As Ecojustice educator Rebecca Martusewicz (2008) advances, a "collaborative intelligence" is needed among educators.

Recognizing intelligence as an ecology of mind necessary to stem the tide of destruction in an over-commodified world is a moral responsibility we have to our children's futures. It requires that we—educational theorists, teachers, teacher educators—begin to take seriously our dependent relationship on the larger ecological system, and how our own ways of thinking interfere with such systemic wisdom. Whether in schools or in grassroots relationships, taking the notion of collaborative intelligence seriously means that we teach our children and our neighbors as future and current citizens, important ethical choices and responsibilities that recognize those practices that contribute to sustainable healthy communities of life, and those that do not (p. 27).

Shaping a face of what school, learning and teaching could be, the demand for a future teaching force that is transformative toward social and ecological change may be, in part, the responsibility of teacher education programs to make a paradigm shift working with their given teacher population. Moving in a very different direction than the standardization movement begun by the 1888 Senate, the current available teacher education program literature suggests a return to community:

Impetus for Learning to Teach With Community

Studies and reviews propose that quality field experiences for developing culturally responsive teachers may be dependent on including facilitators who themselves are culturally responsive. Facilitators described in successful fieldwork programs belonged to program faculty, school staff or the community, but their skills, beliefs and identity development were community-based, developed from engagement and collaboration with diverse individuals from the larger school community (Cooper, 2007; Mahan, 1982, 1983; Murrell, 1998; Nieto, 1999; Sleeter, 2001; Stachowski & Mahan, 1998; Zeichner, 2003; Zeichner & Melnick, 1996).

Teacher education program students who demonstrated aspects of culturally responsive teaching as well as became more socially transformative in their beliefs, attitudes and expectations were placed within collaborative programs that used community knowledge and experiences with critical reflection support (Cochran-Smith, 2004; Haberman & Post, 1998; Ladson Billings, 2000; Oakes, Franke, Quartz, & Rogers, 2002; Quartz, 2003). In particular, service learning fieldwork programs that were led by culturally responsive facilitators were able to provide participants with fieldwork opportunities to engage in culturally responsive teaching practice experiences as well as receive self-reflective support opportunities to promote social issues (Baldwin, Buchanan, & Rudisill, 2005; Gay, 2000; Murrell, 1998; Rogers, 2006; Root & Furco, 2001; Seidel, 2002; Sleeter, 2001; Wade, 2000; Zeichner, 1996). Guided and modeled reflection in conjunction within shared social fieldwork contexts made advances in students' critical thinking and problem solving opportunities adapting culturally responsive and relevant instruction (Darling-Hammond 2006; O'Grady & Chappell, 2000; Olsen et. al, 2005; Richards 2006; Morton, M., & Bennett, S. V. 2010; Sleeter & McLaren, 1995).

Unfortunately, entrenched in standardization, the overwhelmingly dominant modus operandi for teacher education fieldwork has been the study of school-based experiences and techniques. Socially transformative teaching developments, as reflected in the literature, have not been encouraging. Partnership fieldwork experiences between public schools and preparation programs have not shown substantial multicultural competence development (Irvine, 2003; Grant & Secada, 1990; Murrell, 2000; Sleeter, 2001; Zeichner & Hoeft, 1996). Excluding experiences with local multicultural community service learning, agencies and parents for developing cultural knowledge connections (Boyle-Baise, 2005; Murell, 2001), school partnerships have also failed to significantly develop participants' culturally relevant teaching skills (Ladson Billings, 2000), multicultural awareness (Deering & Stanutz, 1995), multicultural attitude (Wiggins & Follo, 1999) and expectations of achievement (Terrill & Mark, 2000) when working with an ethnically diverse student population.

In *Deschooling Society,* Illich (1971) speaks to these findings: at the very least, a school-based fieldwork experience cannot solely provide the universal experience needed to foster socially transformative teaching. With no greater institutionalized alternative pedagogy base exposure in teacher education, future and current teachers are more likely to continue ineffectual status quo practice and curriculum (Zeichner, 2006). Ultimately the literature points to the need for teacher education to incorporate larger community contexts to create culturally and socially transformative teachers. Indeed, teacher education programs integrating coursework with school *and* community fieldwork placement contexts have been found to positively guide educators in the field of teaching to work for social justice (Head, 2009). Moreover, collaborative, community inclusive service learning showed the most promise in encouraging teachers to become transformative agents of change, teaching for social justice, diversity and equity.

EcoJustice Social Connections, Constructs & Applications

EcoJustice Education seeks a movement to challenge pervasive anthropocentric (human over nature) and exploitative mindsets, to reveal and challenge the hubristic notion that the capital market-based brand of thought is superior, and to consider alternative sustainable ways of knowing that support, revitalize and empower sustainable common communities (Bowers, 2006). Addressing the pervasive destruction caused by market-based culture at a deeper ecological level, and responding to consumerism's accelerating demise of diverse natural ecosystems and human cultures, EcoJustice Education simultaneously challenges the many -isms we experience and exacerbate in competitive market-based culture on a daily basis. To use a market-based metaphor, EcoJustice is a 'two-fer' not only addressing the many debilitating constructs students and teachers face in our limited social culture, but also the pervasive (and more deeply hegemonic) anthropocentrism we use to erode our sustainable common cultures, increasingly de-valuing the strength of our natural systems to renew.

Stemming from literature pointing to the need for teacher education to incorporate larger community contexts to create culturally and socially transformative teachers as well as evidence that showed how supported fieldwork experiences working outside the school within an authentic community context offered the best opportunities to develop teachers' cultural competence and understanding of larger social justice issues, I sought to discover if a teacher education course at the graduate level, with EcoJustice Education community-place based learning at the heart, might provide my in-service teachers opportunity to become more socially and ecologically transformative in their pedagogy and practice. Through examples and self-exploration of "commons and market-based culture" (defined below), students contextualized social justice critical pedagogy within the idea of ecological commons enclosure and revitalization provided by EcoJustice pedagogy.

EcoJustice theory and practice were connected in coursework, and presented to students with depth and breadth relevant to community place-based educational pedagogy (Bateson, 1972; Bowers, 2004, 2005, 2006; Martusewicz 2005; Martusewicz & Edmundson, 2004; Orr, 1994; Shiva, 1993; Young, 2005). Through interactive course sessions, commons community building modeling and mentoring, exposure to various films, text, media and discussion, and concurrent intergenerational commons stewardship revitalization projects with community mentors, participants reexamined and acted upon their educational pedagogy and practice through the EcoJustice lenses of commons culture "revitalization[3]" and market culture "enclosure[4]" (Bowers, 2004b). Noting that, while commons and market culture may initially be introduced or perceived as isolated or dichotomous, they can be simultaneous within any aspect of complex culture.

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[3] "As the commons are understood as the totality of the culture and natural systems that are freely available to all the members of the community, the process of revitalization involves both the strengthening of local decision making in ways that ensures the continuation of these practices as well as reclaiming aspects of the commons that previously had been enclosed."

[4] "The process of limiting access, use, and democratic decisions about what can be freely shared by members of the community; enclosure both of natural systems (water, forests, plants, animals, airwaves, etc.) and cultural practices and achievements (music, traditions relating to food, healing, entertainment, games, entertainment, craft knowledge, etc.) through the monetization and integration into industrial culture…"

When envisioning what EcoJustice Education and a corresponding fieldwork experience would look like within my specific graduate course and fieldwork context of elementary school curriculum, I intentionally extended successful culturally responsive program literature findings into the EcoJustice paradigm. Mirroring literature success findings within EcoJustice applications, I involved my students in many and varied intergenerational mentorships within the local commons of the university and their own hometown communities. Given that community educators provide important and essential knowledge, community intergenerational mentor educators were selected for grassroots commons skills, reinforcing ideas of interdependence and community. Community members and families shared the responsibility of educating teachers.

As was found in culturally responsive programs, the depth of participants' community experience and mentorship relationship determined the degree to which they felt that adjustments needed to be made in their teaching practice. Thus, within my EcoJustice model, I modeled for participants how fieldwork could offer immediacy and provide opportunities for them to build a strong relationship with their selected mentors, so that they would better be able to reinvent their perceptions of teacher preparation using strengths of experienced insider community perspectives. With formal guidance taking multiple and varied fieldwork actions towards revitalizing a particular commons of their choice, participants collaborated with larger, more diverse communities than just schools.

Working within community contexts and alongside community mentors, participants shifted from market perspectives toward commons perspectives within a shared civic social experience done for the benefit of the larger community. While reinforcing ideas of interdependence and community in course sessions and through commons fieldwork, and drawing upon common local culture skill solutions, participants disengaged from a market mindset, engaging critical analyses of socio cultural-political contexts and issues and moving operational daily consciousness towards social agency.

Eco-Social Findings: Participant Voice & Outcomes

For their final course requirement, participants composed an analysis and application piece synthesizing summative common skill field experiences and coursework content explorations of EcoJustice elementary curriculum design and implementation. It was from these final written pieces that I examined effect and influence of EcoJustice course constructs upon my students' pedagogy and practice. Voices of participants below are organized by outcome subheadings. Following, a summary of findings is provided along with discussion on current efforts and future potential of an eco-social culturally responsive movement in education.

Civic Responsibility: By re-naming their personal experiences as commons revitalization and enclosure in coursework, and by experiencing new constructs within a meaningful mentor fieldwork relationship, participants were better able to apply their suddenly profound and relevant life experience to their immediate school and local communities. In their final reflections of teaching practice applications, students' authentic experience with field and coursework equated into reflections of intended commons curriculum with families and community. Students' voices on course and fieldwork experiences showed 'It's-bigger-than-me' civic responsibility realizations. As one student considered,

> When I started this course, I knew about some of the things that needed to change and I
> knew that things needed to be done, but I didn't quite realize how important it is for me

to start making a difference…I never really thought about the reasons behind what was making our earth so fragile…this [commons fieldwork] project really inspired me to share my experience with my students and get them to be a part of it. I didn't know how extreme the market-based culture has affected the world until now. I am at a place where I want to make a difference. I have always felt that I should do something, but I never really wanted to. I feel so differently now.

Asking difficult questions, below another participant expresses her self-responsibility to help her school and community acknowledge and protect family intergenerational common practices from enclosures.

We have an awesome responsibility to prepare young people for their lives outside of school, no matter what they choose to do in the future. How can we give them all the tools necessary for success in adulthood? Long ago, children were put into apprenticeships to learn what they needed for a specific vocation. They learned from a skilled community member how to perform a job that helped those within the community. How can we, as teachers today, create a school environment that supports intergenerational learning and builds relationships with the larger community?…How can I encourage this kind of sharing of knowledge outside of my own classroom? I think it is important for me to recognize the relationships that already exist and talk about how they help a family and community stay connected…Educators, parents, extended families and communities must work together to teach children how they can live in our society while protecting the traditions of the past, gaining knowledge from each other and being ecologically responsible. We cannot blindly go forward, consuming the entire planet without regard, and expect the earth to continue to sustain us…

Commons Space Revitalization For School and Classroom: Beyond articulating their intentions, students redefined and evaluated learner and teacher roles through recognition of their teaching practice and curriculum development as possible means to renew and revitalize their larger community commons. Participants began to formulate action plans for commons skill revitalization within their schooling systems. Below, three students explain how they would bring multiple commons skills into (and out of) their classroom and school. The first, described promoting lifelong activists and learners through integrating candle making craft commons skills into subject disciplines towards meaningful community service.

A commons based skill such as crafting beeswax candles could also be integrated into the curriculum, assuming a subject variety is included (reading, writing, math science, etc.) and the content of the unit is appropriate for the grade level. I think the important point is not only to make the event occur, but to expand it beyond the classroom and school walls and to make it relevant and self-sustaining… instead of making candles for the sake of making them, teachers can inject the task with purpose. Every year, my school participates in the *Relay for Life* in Bristol to support cancer awareness and research. Candles are laid upon the relay track perimeter in little bags labels with the name of someone who has or had cancer. Why couldn't student-centered beeswax candles be used? The money used to make the candles, as well as the donations received for labeling a candle with a name and placing it on the track would be cycled throughout the

community, from the local beekeepers to the schools to the hospitals. Wow, I think that could actually work!…I think educators need to show how learning is relevant to the entirety of a person's day, not just for the time that someone is in school…to develop not just lifelong learners, but lifelong thinkers, critics and activists.

A second student considered how she might integrate two revitalization space projects with her school and larger community, the creative arts and free-time commons,

> As a whole community, there could be a "game night" that allows for everyone to come together to see the games that have been created by the students using the earth's resources and the creative arts skill of pottery. Families of the students and people in the community will be able to see how these students have used the commons. As a teacher I would help bring the creative arts commons into the classroom by having a mini lesson on how to create pottery…families can be joined in and the objective piece can be a type of kitchen collection, weather it's a plate, cups, blown glass, etc…students and families can be aware of what they are able to create and be able to reuse it over and over on a daily basis. Within the classroom to show this, students can have their snacks on plates they've made or drink water/milk out of the cups they've made. This would be an example to the students to show how the school is trying to revitalize the commons…

A third brainstormed how she might challenge the pervasive television market enclosure by revitalizing multiple common skills within after school activities that would bring children, teachers and families together meaningfully and joyfully.

> Another action I can take it is to incorporate the commons and collaboration with families and communities to foster relationships and "no television" days. Teachers and families can work together to develop after school activities where students and their families learn to play games and develop other commons skills of interest such as cooking, gardening, storytelling, sewing or quilting, pottery, painting, and others.

> *Defending Classroom Commons Against Enclosure:* Within their proposed plans of action, students also advocated for their particular commons skills, anticipating how schooling market enclosure might work against revitalization efforts. To keep market enclosure at bay, participants, anticipated present and future challenges. Below, a student reexamined and strengthened the importance of authentic skill based learning through "community-based" education to counter competitive test-based schooling within her existing school curriculum.

> There should be more of an authentic and holistic based curriculum, not a test (CMT) based curriculum. People of different cultures and the world we live in and where we came form should be the basis of the curriculum. Participation in activities and the process of doing things should be looked at and celebrated, not the grade of one test at one time…If we try our best to eliminate the competitive nature that standardized testing and government officials encourage, and cultivate [instead] a more caring institution by making social, community-based, hands-on, authentic processes the norm, then the result can only benefit our students, which will hopefully then benefit their communities, country and world.

Participants' reflections adapted mainstream educational theories and standards to justify the potential for their commons curriculum. The participant below found justification to incorporate her moral and spiritual commons practice skill of Yoga into her school's mathematics curriculum:

> I also found that Yoga could be integrated into Math class! According to Best Practice, students should develop the strategy to act out representatives of sequential actions and kinesthetic sense (Best Practice, pg. 116). I used one Yoga exercise that required three deep inhales followed by one large exhale to represent the numbers being multiplied and the large exhale represented the product because it was much bigger than the three smaller numbers that were multiplied. Instead of inhaling and exhaling, we stretched our arms up and said the math problem. (3 x 3 x 3 =27) It may sound silly, but I found that my students really enjoyed the movement part of the activity and it helped them remember that the product is going to be the biggest number of the math problem because they equated it to the large exhale at the end of the Yoga exercise. This is just one example of how I was able to bring Yoga into my elementary classroom.

Similarly, a student below makes the case for commons revitalization and skill development with her students through accepted mainstream discourse of cooperative learning and using "real rich, complex ideas and materials" to motivate "authentic" learning.

> Best practice states, "cooperative learning activities tap the social power of learning better than competitive and individualistic approaches (Zemelman, Daniels, & Hyde, p. 11). It is important that students learn to communicate with others while they are working. Not only is quilting and intergenerational skill, but it can also be used as a cross-curricular tool for learning…When looking over the curriculum I always look to see what the students will enjoy doing with the material. "Real rich, complex ideas and materials are at the heart of the curriculum. Lessons or textbooks that water down, or oversimplify content ultimately disempower students (Zemelman, Daniels, & Hyde, p. 10). This is what is known as "authentic" learning. Students should be immersed in what they are learning…

Classroom Commons Operationalized: As tribute to the authenticity of their reflections, participants operationalized commons revitalization ideas, using fieldwork experience and insights to reinforce innovative curricula and teaching practice. The highly descriptive operational detail of EcoJustice Education applications is illustrated in below quotes, where the following student offers an elementary curriculum construct of 'Commons Discussion & Reflection (CDR)'

> I would provide my students with "homework" to work on their commons. Part of their homework would be to practice their commons. This would be given daily, for example: Practice our commons for 10-15 minutes (given Monday-Friday). This way they know they should be working on their commons and building a health[y] commons relationships in their everyday lives. I would be a mentor for my students by providing them in class each week to discuss the commons. For example, this could be done every

Friday, where I leave time for my students to have a CDR or Commons Discussion & Reflection. Together as a class we would sit in a circle and go around and discuss what we had done for the week in our commons. How often did we work on it, what were the challenges, successes and questions? Students will then be able to give feedback, ask questions, offer comments, etc. Providing them with CDR will help them to become mentors to their family, friends and schoolmates. Offering students CDR will encourage mentoring in each commons and help build relationships among the students and naturally, it turns into a mentoring session.

Participants also formulated action plans within education systems to revitalize their particular commons and challenge relevant market enclosure(s). The participant below redefined and developed EcoJustice curriculum strategies to challenge enclosure through self-critique and commons experience.

I also think it is important to note that my commons skill is no more or less important than skills involved in all of the other commons…Something so mundane as playing games can easily be pooh-poohed by market culture as being a "waste of time". Yet from my own experience with children, playing games has become an almost effortless and joyful means to opening up multiple learning and skill development, all encapsulated in a very social, building community…Playing games involves not only critical thinking and knowledge in some cases, but also serves as a great social skill teacher. Students typically can't be introverted and independent when playing games; they have to rely on their teammates and partners. Therefore I see game playing as something that could and should be taught during the school day, and not just encouraged during indoor recess….I believe that the classroom for learning in this commons would have to start outside the school and slowly be integrated inside the classroom. I would love to hold a weekly or bi-weekly game night outside of school where parents and children could meet with members of their school community to play different board games for fun. Perhaps the food commons could be integrated into these events as well if parents all bring a dish to the game night…Getting to know my students and their parents is definitely a way to start. It is also important that I find ways to stay involved in these events so that my students and families know I value what I preach. Chiras (2005) describes the importance of how our values are judged by how we act and not what we say we believe in. I can't talk the talk if I'm not willing to engage in the process and events.

Classroom Commons Implementation: Some participants went beyond intentions, ideas and justification to describe how they were actually implementing EcoJustice applications concurrently with the course. One participant wrote about the integration of her personal creative commons experience into her classroom, which, in collaboration with school staff, she then adapted and expanded to her own classroom teaching practice and a school mentorship program,

My experience learning the piano was amazing…[it] opened my eyes to how simple life can be without a lot of technology and without depending on the bigger better thing. I have started bringing this experience into my classroom. I have spoken to my music teacher and she is working with me on how to combine it with my regular lessons…With my students being the leaders of the school, the other fifth grade teacher and myself have

been working on a mentoring program for other reasons. However, I have spoken to him about adding a teaching aspect to the program. Besides being positive role models for behavior, I would like the students to share their skills with others. It will give them confidence and self-esteem, which many of them lack.

This participant also described how personal EcoJustice course construct models helped her determine a course of action with her students when actively exploring commons and market culture concepts with students in school.

First, I had to think of about how to bring the conversation about commons versus maket-based culture up with my students…we did a 'no-T.V.' activity and then they counted commercials. We had many conversations about how we feel when watching T.V. and why we think we needed it…I am hoping that my students will think about the commercials on T.V. and think about what they depend on to live. If they are thinking about it, then that is a start. That is how it happened to me. The discussions in [my graduate] class helped me see things differently and I am able to bring that into my teaching. The conversations are still happening, as we are moving on to bringing in commons skills into the classroom…

School-Community Commons Stewardship: Overall, participants in this study made a shift from basing their perceptions on individualistic school culture to a larger community commons culture. In their reflections, participants broke from the status quo default of self-centered discourse of 'me as the teacher' toward basing their thoughts around possibilities of meaningful interpersonal relationships centered upon intergenerational commons knowledge within the community. As two students wrote,

As a teacher and having learned an intergenerational skill, I have the ability to spread my knowledge and experience to expose students, families, and the community to everything. The "classroom" could be moved to the outdoors for the students to see first hand how the Earth's resources are used first hand to help us complete daily tasks in today's society. Teachers could be those with experiences in any type of intergenerational skill that brings forth the use of the commons….

I would really like to change the idea of 'getting parents involved in school' with the idea that parents are *part* of the school. School is not just about the students and teachers. The community is all interconnected between parents, students and teachers. Parents could help plan lessons, provide materials and even teach lessons that are connected to areas that they have knowledge of. It would be a great experience for children to see their parents be part of the planning and teaching that takes place at school.

Applying EcoJustice course and fieldwork understandings in real-time, the participant below started with families as a beginning point for her revitalizing commons-based learning in her classroom and school. She describes her EcoJustice actions and thoughts,

I have started reconnecting with the families of the students…I have had students fill out surveys with their families about what is important to them and what skills that each

family member has. Next month, we will be having a "family week" where my families come in and present something that they know that helps out their community…I will help my students practice their skills by giving them opportunities in the classroom other than the presentation…I think with the skills being important to their families, they will be likely to practice. Unfortunately, with most of our focus on reading, writing and math, my students don't have a lot of time to learn about social studies. I am hoping with collaborating with other teachers, that we will have the time to integrate the subjects with the common skills learned.

Over the course of this study, participants became more politically active as commons stewards and saw the need and reward for their students, school, parents and larger community to become a collective stewardship. As one student below explained the relative importance for EcoJustice commons revitalization:

The connection of thinking and doing for/with others from the heart is the true meaning of wealth/richness and is one of the benefits of revitalizing the commons…revitalizing commons within a school will provide decision making opportunities to building pride and spiritualism that connects to the community in a non-selfish manner, connects to actions of sustainability in the environment while expanding their literacy skills via rich traditions.

Participants ultimately were able to envision in detail the importance of a school-community commons stewardship that brought children, community, learning and teaching together. Drawing upon inspiration and insight from her Puerto Rican crocheting fieldwork experience, the student below explains her contributions to a Language-Creative Arts cultural commons revitalization collaborative for her students and community:

In contribution, I would like to interweave throughout the day/month crocheting during the snack-break time, recess, after school and weekends. During those natural face-to-face interactions, the students will use their L1 (native language) and L2 (second language) language skills to exchange their connections to crocheting and develop a purpose to create items to pass forward. I would recruit volunteers (their family members or school community) to expand their skill into other projects besides scarves. The students would reflect on the needs of their population and community…Interacting in after school and weekend workshops (within the school library or cafeteria) will provide bonding, learning opportunities and intergenerational stories among generations. Storytelling in L1 and/or L2 is a rich way to pass on traditions, content, cognition and language skills. Decisions to share how to instructions and create storybooks in various languages form the intergenerational stories shared while crocheting is priceless. Students and family members are learning from each other traditions and culture while learning the stitches and various patters to complete a care item. Mentors (parents, students, community members) will be at different stations within the library and/or cafeteria to teach a skill/pattern that creates various items (scarves, hats, sweaters, shirts, purposes, sacks, tablecloth, puppets, dolls, blankets, home décor, holiday décor, etc.) the items can be locally passed forward periodically and for the holidays to neighbors, newcomers, shelters, hospitals in an expression of care, support, encouragement, empowerment and self-reliance.

From their EcoJustice course in curriculum redesign, participants were able to succinctly express an applied vision and open a space in their teaching for EcoJustice Education. Learning inter-generational place-based skills from their community mentors, participants in this study found interconnectedness. As was found for socially transformative outcomes in community-based service learning programs (Baldwin & et al., 2005; Gay, 2000; Murrell, 1998; Rogers, 2006; Root & Furco, 2001; Seidel & Friend, 2002; Sleeter, 2001; Wade, 2000; Zeichner, 1996), EcoJustice course and fieldwork teacher education students also realized (and acted upon) a broader definition of teaching and learning in which school became a shared social experience for a community's benefit.

Along with EcoJustice application vision, intention and anticipation, participants actively made concerted deliberate changes in their pedagogy and practice, applying EcoJustice course and fieldwork understandings in real-time action with their immediate students, parents, fellow educators and community. Participants operationalized and problem solved how they might go about revitalizing a commons and defended against enclosure within their current classrooms, school and local communities. They did so with authentic detail, specifically describing how their own commons fieldwork intergenerational skill experience and course construct explorations would further expose and underline community interconnection for their own teaching practice and students.

Central to in-service teachers actively integrating EcoJustice Education into their pedagogical development was a nurturing of genuine community and interdependence through dialogue and experience. At the core of EcoJustice course and fieldwork effect upon my students, authentic space for this new engagement to occur was opened. If EcoJustice Education seeks a movement through community and schools to shift non-sustainable social and ecological realities and exploitative mindsets, the voices and summary findings described above may indicate a partial realization of this goal.

Eco-Social Responsive Educator Presence and Possibility

Gregory Bateson's 1972 *Ecology of Mind* is still significantly absent from our society. Today's Senate is acting upon market-culture driven motives promoted by oil and gas company industrialists, further promoting an ecologically destructive trajectory. As of this writing, proposed legislation to explicitly fight climate change has died. Industrialists have once again trumped action and gotten their wish of 'no action' in the Senate. Big money lobbyists continue to control elected officials for policy that perpetuates market culture.

Our market culture in education likewise demands change. As was true in 1888, stymied within a corporate culture of influence, special interest agendas dictate daily school life, pitting students', teachers', schools' and communities' well-being in high stakes testing situations, in which local school administrative decisions are made largely by their economic affect on adults (Jonsson, 2011). Adult waiting for change within this paradigm is an exercise in futility for children. If teachers are to play by a new set of rules, the role of teacher educator facilitators is paramount. If previous literature and this current study is any indicator, the teachers of the teachers must first take the first step to unmake the old paradigm by creating anew.

Extrapolating from participant voices and findings above, place-based, intergenerational, non-age stratified education opportunities might arise within social-ecological learning community-environment centers. With a particular commons of a community as focus, any hierarchical power relationship, the cultural divide between home and school would become

moot. The classroom for learning could happen in a community garden, at an elder's craft shop, or on the town green. Community mentors would share in teaching and passing on of sustainable traditional intergenerational knowledge and practice 'curricula'. Student apprentices would be provided the opportunity to nurture their own healthful common relationships in their daily-lived experiences and then later become mentors for their own families, friends and neighbors and schoolmates. Ideological perceptions of 'school' or 'job' could instead become shared social work experiences within a local community done for the members of the community. Rather than for self-serving gain within a liberal market mindset, 'work' could become a community of learning relationships that would attend to the human potential of supporting living systems through recognizing and valuing the strength of natural systems to renew while simultaneously addressing the limitations of the social community.

A plausible EcoJustice Education movement is not so distant as it may seem. Students and teachers are already practicing community-building intergenerational skills outside of the classroom (Bowers, 2006, Martusewicz et. al, 2011, Prackish, 2010), providing multiple sources of hope amidst the social and ecological tolls of market culture (Martusewicz, 2008) and allowing opportunity for re-imagining learning, teaching and self (Prakash, 2010). From her own personal India commons of "rasa" – "the quintessential flow of flavors that comes only from slow, deliberate ripening that follows the organic rhythm of nature's cycles" – teacher educator Madhu Sari Prakash champions the efforts of educators to take back the commons:

> In schools and campuses across the country, a new American Dream is bringing together school lunches, families, family farms, gourmet chefs, and community-supported farmers in fresh, new, radical (that is, rooted) ways. Revolutionaries are rising up to reclaim the rasa we have so easily surrendered…Ripeness of reform for the rasa of teaching and learning, living and eating is here…The tragedy of the loss of leisure from schooling because of industrial fast food (and more) can finally be put aside—the cruel, sickening, hard lessons of the twentieth century having been learned (2009, p. 1).

So how can we create eco-socially responsive educators within teacher education? Despite a multitude of market-based pressures in our personal and professional lives, we need to create a space for effective instructional programs and sustainable commons for our teachers and their students. Not only must we understand the importance of transforming ourselves and our learning approach to education research and practice, but we must go beyond our publications and classrooms to actively engage the political arena, confronting corporate, governmental, and our own administrative forces that have either actively or passively prevented people from fully participating in a new paradigm of education and learning. We must go deep into our own personal common roots for inspiration and guidance. For those who insist the market-based paradigm is intractable, in education or otherwise, Joel Kovel (2002) offers these words,

> The belief that there can be no alternative to capital is ubiquitous – and no wonder, given how wonderfully convenient the idea is to the ruling ideology. That, however, does not keep it from being nonsense and a failure of vision and political will. Nothing lasts forever and what is humanly made can theoretically be unmade (p. 223).

The status quo way of doing things must be changed for any real transformation of teaching and learning to take place. Perhaps EcoJustice Education offers this beginning in part.

Critical and ecological culturally transformative responsive teaching practice must be sought through its very suppressed centerpieces, that of taking social action and personal commons revitalization - with the wellbeing of the natural world and our children at the heart.

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Practices of Inverting the Law: Internal Colonialism in Fort Belknap

Giancarlo Panagia

ABSTRACT

This study attempts to examine governmental complicity with corporate malfeasance; it interprets how the original trust doctrine has been misapplied by federal agencies in such a way that the practice of internal colonialism subsidizes corporate control over indigenous peoples' lands and resources. These governmental policies are veiled under the rhetoric that utilitarianism promotes the well-being for the people of the American West. However, utilitarian practices come at the sacrifice of "the others." Utilitarian logic supports policies, which promote the commodification of nature. As long as the goal of furthering production for the greatest sum of good for the majority is satisfied, the others' interests become, from a bureaucratic standpoint, inconsequential.[5]

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Washington sent three men out West. They threatened the Assiniboine and Gros Ventre tribes with loss of their winter food supplies if they didn't hand over the land: "If you don't make any agreement with the government, you will just have to kill your cattle, and then you will have to starve," one commissioner warned. The tribes sold the 40,000 acres for $36,000. They didn't starve that winter… [6]

INTRODUCTION

In 1895, the U.S. coerced, in the Grinnell Agreement, two American Indian tribes residing in the newly created Fort Belknap reservation to relinquish under duress, the lands situated in the south corner of their territory. If this event is not already appalling per se, over a century later, first a district court judge, and later the Ninth Circuit Court of Appeal denied the tribes' request to hold the U.S. government in violation of the federal trust owed to American Indian tribes in their relations as distinct sovereigns. The claim arose from the flowing downstream and into the reservation of cyanide pollution coming from two mines that were developed in those very same territories traded back to the U.S. government through the Grinnell Agreement.

This article presents the Assiniboine and Gros Ventre tribes' struggles against the federal government and a multinational corporation over resource use; the subsequent remediation for previous resource extraction practices leading to pollution on their lands has been challenged by the tribes. This case study can be understood as one of internal colonialism under the aegis of utilitarian logics, which outweigh the core's demands over the interests of indigenous populations and manifest themselves in policies or practices. Federal processes juxtapose economic individualism next to governmental utilitarian logic that represents the sum of individual interests in its majoritarian form; thus, internal colonialism just rubberstamps the sum of individuals' behavior.

The study specifically examines the internal colonialism, which has victimized the Assiniboine and Gros Ventre tribes in their Fort Belknap reservation. Both tribes consider the Little Rocky Mountains of north-central Montana as sacred grounds. On those lands, contaminated waste pilings from the Zortman-Landusky gold mines wash off into the nearby soil and water supply and destabilize the local and surrounding habitat. While much of destruction results from the cyanide heap-leach mining procedures utilized at the Zortman-Landusky site, the U.S. government, by failing to offer first any mitigation measure or even an adequate cleanup plan has rendered the waters on site in need to mitigation in perpetuity. More specifically, since the mine's closing in 1998, the Bureau of Land Management (BLM) has proposed a federal remediation operation that does not sufficiently ensure either the mining site or the local groundwater will ever be clean and safe, per the standards expressed in the federal Clean Water Act.[7] Government regulators concede that the mine will continue to generate acid drainage for thousands of years. Thus, taxpayers will continue to foot the bill for the perpetual treatment of

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[6] Heather Abel, "A Company That Moved Mountains Runs Into a Wall", *High Country News*, December 22, 1997, available online at:< http://www.hcn.org/servlets/hcn.Article?src=QHA129&article_id=3859#>.

[7] Initially enacted in 1972 as the Federal Water Pollution Control Act, the law, as amended in 1977, subsequently became commonly known as the Clean Water Act.

surface water for years to come, and the tribes will face a perennial threat to their water resources.

The case of gold mining on the Fort Belknap reservation offers useful insights into the cultural, political, and economic calculus that has consistently saddled American Indians with the costs of resource extraction and development while awarding them few of the benefits. As accurately stated by White, American Indians were oppressed by policies "intended to benefit the large society of which they were a colonial appendage" (1988:317). In the spirit of internal colonialism, the claims of such violation of trust, redress or even change of policy still receive no sympathetic support by the U.S. courts or the majoritarian stance of the nation. To better understand the present reality of our study, while we use internal colonialism to interpret governmental and corporate behavior, we adopt utilitarian logic to explain why society (as the sum of economic individualism beliefs) accepts actions that benefit the majority but hurt "the other."

We intend to show that by leaving the thrust of the destructive mining operation virtually unregulated for years, governmental policies consistently reproduced, in terms of environmental pollution, the predatory practice of internal colonialism.[8] In this scenario, American Indian reservations are "a colonial appendage of American society and their interests ha[ve] been subordinated to those of dominant groups" (White, 1988:248). For larger society, the fact that environmental degradation creates sacrifice zones is tacitly accepted (Kuletz, 1998:85) so long as the thirst for a desired item, in this case gold, is replenished at an acceptable price to the consumer: "the main culprit in environmental degradation…is the consumer who wishes to 'consume,' among other things, a pristine natural ecosystem".[9] Thus, some people's sufferings are outweighed by the maximization of utility; in other words, paternalistic internal colonialism sets the ground, in the form of cost benefit analysis, by dumping externalities onto others. Their plight becomes subsumed to a governmental stance that privileges the appropriation of land and resources (Kuletz, 1998:202).[10]

INTERNAL COLONIALISM

North American Indians and their reservations represent graphic examples of victimization by the most rampant form of "political subjugation and economic exploitation."[11] It is the paradigm of colonialism, specifically its hidden or internal expression that sociologists recognize as present in Indian reservations.[12] Valerie Kuletz (1998) refers to internal colonies as geographies of sacrifice, while Larry Nesper calls them lands of peripheral people (2002).[13]

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[8] Valerie L. Kuletz, *The Tainted Desert: Environmental and Social Ruin in the American West* (New York: Routledge, 1998), p. 6.

[9] Michael E. Harkin, *Swallowing Wealth: Northwest Coast Beliefs and Ecological Practices* in Michael E. Harkin and David Rich Lewis, (eds.) Native Americans and the Environment: Perspectives on the Ecological Indian (Lincoln, NE: University of Nebraska Press, 2007), pp. 211-32, at p. 212. For a discussion on the concept of sacrifice zones, see Kuletz, *op. cit.*, p. 7.

[10] Simon N. Patten, *Territorial Expansion of the United States* (Philadelphia: University of Pennsylvania University Lectures, 1915), p. 201.

[11] C. Matthew Snipp, "The Changing Political and Economic Status of the American Indians: From Captive Nation to Internal Colonies," *American Journal of Economics and Sociology* 45:2 (1986), pp. 145-157, at p. 145.

[12] Robert K. Thomas, "Colonialism: Classic and Internal," *New University Thought* 4:4 (1966), pp. 37-44, at p. 38.

[13] Peripheral region is a concept that is often used with the theory of internal colonialism. Kuletz defines perihperal region as being dominated by the core or metropolis: natural resrouces are re-routed from the internal colony

Next, natural resources are channeled out of the peripheral region, leading to its underdevelopment (White, 1988) and moved toward the core area in which both political and economic power are heavily concentrated.[14] Thus, internal colonialism becomes pervasive up to a point where, "economic activities within a region only reflect factors essentially controlled outside the area" (White, 1988:xvii). This theory is based on three major assumptions: "First, reservations are the exploited satellites and American society is the exploiting metropolis. Second, the relationship between the tribes and the Federal Government has nurtured underdevelopment and dependence in Indian communities. Third, resource development is an invitation for yet greater exploitation and underdevelopment."[15]   In this perspective, governmental agencies are just the historically derivative instruments that allow transnational corporations to fulfill the purposes of the dominant at the expense of "the other."[16]

Federal Trust Relationships

The federal trust relationship with American Indian tribes and its "racist" origin is the key to better understand the "federal tolerance or indifference" to the future of American Indian reservations, initiated by the Reagan administration (Camacho, 1998:13).[17] By using the federal trust relationship, governmental agencies dictate policy in Indian Country by simply "responding to the standard excuse of the immaturity of colonial peoples and their incapacity to administer themselves."[18] It was according to this framework that the U.S. government acquired Indian lands by using the trusteeship as "a dominant ideological premise of the federal government's relationship to Indian Tribe."[19] In fact, the trust responsibility, enunciated by the Supreme Court in Cherokee Nation v. Georgia (1831), still justifies the U.S. federal power over American Indians and their reservations; tribes are deemed "domestic dependent nations" as "a ward" in "a

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(periphery) to the core area where the power is concentrated. *The Tainted Desert: Environmental and Social Ruin in the American West* (New York: Routledge, 1998). According to Nesper, peripheral people refers to the marginalization of minority populations that are isolated and, consequently, not deemed as "real" people, which is more an exemplification of critical theory. *The Walleye War: The Struggle for Ojibwe Spearfishing and Treaty Rights* (Lincoln, NE, University of Nebraska Press, 2002).

[14] Joseph G. Jorgenson, *Indians and the Metropolis* in J.O. Waddell and O.M. Watson, (eds.) The American Indian in Urban Society (Boston: Little, Brown and Company, Boston, 1971), pp. 66-113, at p. 84.

[15] Snipp, *op. cit.*, p. 150.

[16] Richard Nafziger, *Transnational Corporations and American Indian Development* in R. D. Ortiz, (ed.) American Indian Energy Resources and Development (Santa Fe: University of New Mexico, 1980), pp. 9-38. By "the other," we are describing those individuals and groups whose social, economic, and physical welfare is necessarily sacrificed in order to achieve the desired utilitarian outcome of maximizing good for the majority of people. In a more latent sense, American Indians are subject to a coercive process through which political, cultural, and corporate forces have systematically, over time, institutionalized their oppression. In terms of the present case study, the sacred nature of place in Indian Country is rendered, from a Eurocentric perspective, as meaningless due in part to the perceived powerless status of American Indians. Hence, dominant society benefits by exploiting those lands and their resources; the willful harm inflicted on the *conquerable*, so to speak, is little more than collateral damage needed to achieve the desired utilitarian end. For an excellent discussion on "the other" in relation to Western culture and power, see Edward W. Said, *Orientalism* (New York: Pantheon, 1978).

[17] James M. Grijalva, *Closing the Circle: Environmental Justice in Indian Country* (Durham, NC: Carolina Academic Press, 2008), p. 199.

[18] Frantz Fanon, *A Dying Colonialism* (New York: Grove Press, 1967), p. 63.

[19] Robert A. Williams, Jr. The Medieval and Renaissance Origins of the Status of the American Indian in Western Legal Thought 57 S. Cal. L. Rev. 1, at 96 (1983).

state of pupilage" to its "guardian," that is the "potentially autocratic" federal government.[20] Accordingly, the presumption is that "the United States would act with the utmost integrity in its legal and political commitments to Indian peoples."[21]

The United States plenary power supported the ill-fated Grinnell Agreement of 1895 as another example of exchanges in which the white government officials "coerced" the tribal members to trade land for food (White, 1988). Nowadays, the same power allows acidic runoff and seepage from the Zortman-Landusky cyanide heap leaching operations to contaminate reservation ground water. Although we auspicate a different implementation of the trust relationship in which the United States must "act with the utmost integrity," in reality, tribes are still "minions of the federal government."[22]

When discussing trust relations between the United States and tribes, the Supreme Court in <u>Mitchell</u> and <u>Nevada</u> set the judicial standard of care, competence, and integrity in trust obligations. Making the task more difficult, there are no regulations governing the trust relations. As a result, companies mining gold near a reservation mostly deal with those federal government agencies authorized to oversee the permitting of a mining operation. These agencies supposedly know their fiduciary duties to tribes and are purportedly held accountable for them.[23]

However, the problem with the trust doctrine is that federal officials, in the fulfillment of their responsibilities toward American Indians, are held "only [to] a good faith standard, which perpetuates inequitable protections for Indian lands."[24] As the end result, any "trust doctrine claims must always appeal to the "conscience" of the dominant society."[25] After all, as White points out, "The alterations in the land would be a consequence of the European peace" (1988:70); in other words, peace treaties came at a very hefty price for American Indian tribes and their lands. In this context, still presently, the doctrine of trust relationship helps keep into place the status of internal colonization in Indian Country. As pointed out by legal scholar James Grijalva, "a relevant case in point was [a] court's recent rejection of claims by the Gros Ventre and Assiniboine Tribes that the federal government violated the trust responsibility by permitting two cyanide heap-leach gold mines upriver from the Tribes' reservation."[26] This comes as no surprise in the landscape of the American West, in "an economy where strip mines…scar the land and destroy the people's health" (White, 1988:323). When the time came for the courts to rectify previous injustices, the trust doctrine lost any meaning and became unavailable to the colonized claimants. This injustice takes place because "the United States has targeted Indian lands, which they own 'in trust' for Indian communities, for resource extraction."[27]

To make matters worse, deregulation has released corporations from having to maintain minimum standards for environmental safeguards in Indian Country (Cole & Foster, 2001:142).

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[20] Charles F. Wilkinson, *American Indians, Time, and the Law* (New Haven: Yale University Press, 1988), p. 78.

[21] David E. Wilkins, *American Indian Politics and the American Political System* (Lanham, MD: Rowman and Littlefield, 2002), p. 45.

[22] Wilkinson, *op. cit.,* p. 124.

[23] In 2003, the Fort Belknap reservation sued under the Clean Water Act, to stop ongoing discharge of contaminants from the closed operation. An out of court settlement of $32 million to insure compliance ensued to demonstrate that water standards had been indeed violated.

[24] Sylvia F. Liu, "Comment: American Indian Reserved Water Rights: The Federal Obligation to Protect Tribal Water Resources and Tribal Autonomy," *Environmental Law* 25:2 (1995), pp. 425-462, at p. 456.

[25] Williams, Jr. p.96 (1983).

[26] Grijalva, *op. cit.*, pp. 23-24.

[27] Darren J. Ranco, *The Ecological Indian and the Politics of Representation: Critiquing the Ecological Indian in the Age of Ecocide* in Harkin and Lewis, *op. cit.*, pp. 32-51, at p. 41.

In other words, internal colonialism is alive and kicking under the guise of efficiency. In this political climate, an "efficient strategy of resource procurement is adaptively superior and becomes the cultural norm."[28] If indeed it is true that "human-dominated ecosystems cultural change…precipitates environmental change (White, 1988:70), the changes in the use of the land reflect the effects on its inhabitants. Thus, in this context, deregulation allows for the continued domination of American Indians by the European-origin settler population, and as a result, "colonization has left many Indian environments in disarray because of United States policies of resource extraction."[29]

Utilitarian Theory

To better understand neo-liberal policies, we posit that utilitarian logic is at the foundation of the governmental acceptance of environmental degradation as long as the thirst for a specific premium item (i.e. gold) is satisfied.[30] Presently a current of thought heavily influenced by Mill's theories is known as Rule-utilitarianism, which claims that what is morally right is established by assessing what applicable principle or social practice would maximize the sum of the general good. In accordance with this branch of utilitarianism, if the majority of the population complies with a rule, then it is considered to be the best, or most appropriate for society. The misguided conclusion based on this majoritarian rule is "the corporate-government misconception…that everyone would like to be wealthy" (Robyn and Camacho, 1999:205).

The main proponent of this theory, Richard Brandt, believed that an act is right when it "best incorporates…the proposed system of optimal moral motivations for instant cases" and reflects the ideal moral code that governs society.[31] Accordingly, the desire for a specific good always drives the need for eventual instant satisfaction or gratification of the moral majority's needs.[32] For example, the thirst for gold and the maximization of its utility not only is reflected in the social moral code, but also is considered an intrinsic good that can be satisfied to better a societal desire.[33] As a matter of fact, in terms of a moral code "materialism is an important cultural value in the United States" (Camacho, 1998:213). In conclusion, a moral code is ideal

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[28] Harkin, , *op. cit.*, p. 213.

[29] Ranco, *op. cit.*, p. 33; see also, Kuletz, *op. cit.*.

[30] Utilitarian theories consider the total sum of the interests of individuals in a given community through advocating actions that maximize the production of the greatest good for the largest number of people.

[31] Richard B. Brandt, *Facts, Values, and Morality* (Cambridge: Cambridge University Press, 1996), p. 145.

[32] Richard B. Brandt, "Fairness to Happiness," *Social Theory and Practice* 15:1 (1989), pp. 33-58, at p. 38.

[33] The government's failure to gain better compliance for remediation measures from the polluting companies is usually removed from the public eye. Starting with John Muir in the early twentieth century and continuing to the present, environmentalists have challenged (to varying degrees) the dominant society's focus on development and profit at the expense of nature (Camacho, 1998:213). Conversely, some Indian tribes have supported projects (including mining and nuclear waste storage) that environmentalists oppose in order to provide jobs and revenue for impoverished reservations. It is often a Faustian bargain, to be sure, but treating such instances as simple cases of environmental racism and colonialism robs Native people of internal agency in their own history and dismisses the very difficult dilemmas that tribes face in exercising their sovereignty. See David Rich Lewis' analysis of the Skull Valley Goshutes and nuclear waste storage. *Skull Valley Goshutes and the Politics of Nuclear Waste: Environment, Identity, and Sovereignty* in Harkin and Lewis, *op. cit.*, pp. 304-42. For a discussion of tribal efforts to exert more control over mineral and oil extraction on reservation lands, see Marjane Ambler, *Breaking the Iron Bonds: Indian Control of Energy Development* (Lawrence, KS: University of Kansas Press, 1990).

for a society if its acceptance by the vast majority of the society's members would produce more good per person than any competing moral code.[34]

THEORETICAL ANALYSIS

As a legal scholar, Hans Kelsen discussed a basic principle or code (called Grundnorm), which situated the origin of law and governs society.[35] Kelsen used this term to denote the basic norm or rule that forms an underlying basis for a legal system. We posit by extension that such rule provides an infinite regress of legitimation. As they are grounded on a basic norm, positive laws are those laws that must justify themselves by a cognitive discipline.[36] If we adopt the premise of rule utilitarianism, rational people by cognitive science would discern the positive law realistically governing the existing society.[37]

According to Kelsen, each societal member holds a subjective Grundnorm perception in relation to a given legal system. However, as the individual has a subjective Grundnorm perception of the system, by being directed at the system it also attaches to the system, therefore becoming part of it.[38] Exempli gratia, individual perceptions of American economic individualism (White, 1988:239) as the dominant social paradigm (Smith, 2009:7) become attached to the system as the majority's view.[39] Indeed the perception of meaning is a vital component necessary for the system to properly operate.[40] If the subjective perception of the legal principle extended by ideology to the majoritarian view is more favorable to the commodification of nature, its degradation may be accepted as long as it is justifiable in the framework of cost-benefit analysis, rooted into the utilitarian logic.

Needless to say, the process of producing happiness for the majority of society will inevitably come at the geographic sacrifice of "the others."[41] It is in this vein that utilitarian logic, through its rejection of common sense morality, provides grounds for those who question the legitimacy of racial injustice challenges. Thus, utilitarian logic becomes the theoretical defense for the free-market policies designed to promote the commodification of nature into resources at the expense of American Indian interests and beliefs.[42] The goal for free market policies, according to this logic, is to ensure that future production leads to the greatest sum of good for the majority, and thus environmental externalities from a bureaucratic standpoint, become inconsequential.

Utilitarian logic, it stands to reason, exists for the majoritarian view as a matter of economic moral principle. Therefore, according to this view it is most sensible as an economics approach to create and leave behind toxic wastes where land is already cheap, since such placement will have, among other effects, the inevitable impact of lowering land values even

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[34] Brandt, "Fairness to Happiness," *op. cit.*, p. 300.

[35] Hans Kelson, *An Introduction to the Problems of Legal Theory* (Berkeley: University of California Press, 1992), p. 59.

[36] Hans Kelson, *Pure Theory of Law* (Berkeley: University of California Press, 1967), p. 204.

[37] Kelson, *An Introduction to the Problems of Legal Theory, op. cit.*, p. 18.

[38] Kelson, *Pure Theory of Law, op. cit.*, pp. 200-01.

[39] Nesper, *op. cit.*, p. 97.

[40] Kelson, *Pure Theory of Law, op. cit.*, pp. 202-03.

[41] Bruce Baum, "J.S. Mill on Freedom and Power," *Polity* 31:2 (1998), pp. 187-216.

[42] Carolyn Merchant, *Radical Ecology: The Search for a Livable World* (New York: Routledge, 1992).

farther.[43]   The fact that minorities are oppressed by living at the margins of society (Kuletz 1998:84) in areas where the value of land is less expensive is secondary to the importance of limiting the overall loss of social wealth, which would be associated, by more conservative rhetoric, with placing toxic wastes in areas of affluence.[44]

Due to the spillover effects of market transactions (known as externalities), the costs of certain economic activities "are not borne by those participating in the transaction but are externalized to '[the] others'."[45] Thus, negative externalities become unequally distributed because the producer will not bear the costs, but will reap the benefits of the transaction. In this scenario, notwithstanding dissenting opinions, "the others" bear the costs of pollution by inhabiting a blighted area (i.e. downstream from a mining facility), while the producer/polluter excavates natural resources and escapes the payment for environmental clean-up (i.e. mining and selling gold, then filing for bankruptcy).[46] As a result, the socio-cultural and economic plight of an entire reservation becomes dehumanized within the purely economic equation of cost-benefit analysis.[47]

The issue becomes one of whether utilitarian federal policies in Indian Country really mystify the continued practice of internal colonialism. What has been established is a system by which the U.S. government maintains institutional control over the sovereignty of American Indians' lands and resources.[48] In practice, the government has come to "outsource" its developmental course of action to its main political supporter, corporations, by allowing them to implement policies that strip Indian Country of what Western European thought refers to as natural resources.[49] This course of action further threatens the future existence up to the seventh generation of native peoples.[50] It is in this continual process of exerting corporate exploitation while maintaining the status quo (Kuletz, 1998:8), through the federal trust relationship, that despoilment of resources has been institutionalized over American Indians and their lands.[51] In the western U.S. cultural paradigm of rugged or economic individualism (White, 1988:239), the perception of the moral legal principle is more favorable to the commodification of nature and its

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[43] Kuletz, *op. cit*.

[44] Laura Westra and Peter S. Wenz, (eds.), *Faces of Environmental Racism: Confronting Issues of Global Justice* (Lanham, MD: Rowman and Littlefield, 1995).

[45] Daniel H. Cole and Peter Z. Grossman, *Principles of Law and Economics* (Upper Saddle River, NJ: Pearson, 2005), p. 14.

[46] Daniel Rich Lewis, *Skull Valley Goshutes and the Politics of Nuclear Waste: Environment, Identity, and Sovereignty*, in *Native Americans and the Environment: Perspectives on the Ecological Indian* in Harkin and Lewis, *op. cit.*, p. 333.

[47] For a discussion of the distinctions between traditionalists seek to maintain time-honored tribal customs and progressives, who are considered friendly towards making treaties and assimilating into white man's culture, see. James V. Fenelon, "From Peripheral Domination to Internal Colonialism: Socio-Political Change of the Lakota on Standing Rock," *Journal of World-Systems Research* 3:2 (1997), pp. 259-320.

[48] Marjane Ambler, *Breaking the Iron Bonds: Indian Control of Energy Development* (Lawrence, KS: University of Kansas Press, 1990), p. 143.

[49] Grijalva, *op. cit.*, pp. 77.

[50] From the Great Law of the Six Nations Iroquois Confederacy, traditionalist Indian tribes abide by the following rule: "In every deliberation, we must consider the impact of our decisions on the next seven generations." For a discussion on why government policies that allow corporations to strip Indian Country lands of their natural resources threaten the welfare of native people up to the seventh generation, see Lewis, *op. cit.*, pp. 304-342.

[51] T.J. Jackson Lears, "The Concept of Cultural Hegemony: Problems and Possibilities," *The American Historical Review* 90:3 (1985), pp. 567-593.

elements (resources).[52]   Thus, the degradation of the environment may be accepted by a majority in the framework of cost-benefit analysis, since economic valuations are not only inherently subjective but also endogenous (shaped by existing social institutions).

THE PEOPLE OF THE ASSINIBOINE & GROS VENTRE TRIBES

The historical alliance between the Gros Ventre and Assiniboine dates back several centuries. In 1868, the U.S. government built for both tribes the Fort Browning trading post near the mouth of the Milk River in Montana.[53]   However, because Fort Browning was built on a favored hunting ground of the Sioux tribe, both tribes were forced to abandon it in 1871, and were subsequently driven to a newly constructed governmental post at Fort Belknap.[54] By 1876, the federal government discontinued the Fort Belknap Agency due to a lack of cost-effectiveness; thus, the Gros Ventres and Assiniboines were instructed to move to the new agency at Fort Peck and Wolf Point in Montana.[55] Although many of the Assiniboines complied, the remaining Gros Ventre refused the move due to the presence of the Sioux.[56] As a result, the Gros Ventre and their Assiniboine allies who had remained in the Fort Belknap area suffered great hardship by forfeiting all annuities and rations obtained from the federal government.[57]

With the Gros Ventres and remaining Assiniboines unwilling to move closer to Sioux territory, the Fort Belknap Agency was reestablished in 1878, allowing both tribes to again receive provisions and annuity goods. Ten years later, the federal government, by act of Congress, officially established the Fort Belknap Reservation, which became the tribes' permanent home in north-central Montana.[58] Soon after the creation of the reservation, demand for tribal lands increased; the discovery of gold in 1884 prompted both federal officials and miners who sought control of those lands to pressure the tribes into ceding the southern parts of the reservation.[59]   Destitute and threatened with starvation from the loss of all winter food supplies, the tribes ultimately signed the Grinnell Agreement in 1896: "The fact that Indians actually starved because colonizers had come…subverted the more beneficent rationale that colonialism brought a better life to all" (White 1988:315). [60]

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[52] For a more thorough discussion of the legacy of rugged individualsm in the Western U.S., see Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley: University of California Press, 2003).

[53] Regina Flannery, *The Gros Ventres of Montana: Part I, Social Life* (Washington D.C.: Catholic University of America Press, 1953).

[54] *Ibid.*; Michael P. Malone and Richard B. Roeder, *Montana: A History of Two Centuries* (Seattle: University of Washington Press, 1976).

[55] Flannery, *op. cit.*; David R. Miller, *Montana Assiniboine Identity: A Cultural Account of an American Indian Ethnicity*, Ph.D. thesis, Indiana University, 1987.

[56] Edward E. Barry Jr., "From Buffalo to Beef: Assimilation on Fort Belknap," *Montana* 26:1 (1976), pp. 38-51.

[57] Loretta Fowler, *Shared Symbols, Contested Meanings: Gros Ventre Culture and History, 1778-1984* (Ithaca, NY: Cornell University Press, 1987).

[58] Flannery, *op. cit*; Barry, Jr., *op. cit.*. Flannery also notes that upon the establishment of the Fort Belknap reservation by congress in 1888, the tribes ceded a total of 17,500,000 acres of the join reservation, agreeing to live on three smaller designated reservations: the Blackfeet, Fort Peck, and Fort Belknap Reservations.

[59] Ambler, *op. cit.*.

[60] Flannery, *op. cit.*. The Gros Ventre and Assiniboine tribes maintain to this day that they were coerced into signing the Grinnell Agreement. See U.S. Bureau of Land Management and Spectrum Engineering, *Final Engineering Evaluation / Cost Analysis (EE/CA) for Water Management at the Zortman and Landusky Mines, Phillips County, Montana (Appendices)* (Washington D.C.: U.S. Bureau of Land Management, 2006).

As the roots of the trust doctrine became entrenched on the Fort Belknap reservation, federal policy sought to better the economic self-sustenance of its residents through agricultural subsistence.[61] The U.S. Supreme Court in the 1908 Winters case established that the tribes on Fort Belknap were entitled to reserved water rights dating back to its reservation treaty.[62] Although <u>Winters</u> mandates that the federal government protect American Indians water rights, the tribes retain the right to use sufficient water to promote their subsistence through agricultural or stock raising activities.[63] Yet, "The failure to adequately implement the policy…represents the precedence of Eurocentric rights, norms, and values over Native American rights, norms, and values" (Berry, 1998:113). Thus, those rights to clean water, if any, became endangered by the use of environmentally unsound mining practices. The adjacent Little Rocky Mountains and the sites of gold discoveries tested the will and agency of the tribes on the Fort Belknap reservation. The tribes faced an uphill battle: stopping the deleterious use of highly polluting mining techniques that poisoned their place in Indian Country.

ENVIRONMENTAL DEGRADATION AT FORT BELKNAP: THE CASE OF ZORTMAN-LANDUSKY

Tribal members bear a disproportionate share of exposure to environmental pollutants if they live on their reservation lands or the greater Indian country.[64] This environmental risk is part and parcel of U.S. governmental policies, which allow multinational enterprises to use Indian Country as little more than a natural resource retrieving ground. Indeed, big business benefits from the enactment of deregulation policies that have reduced institutional barriers and allowed for more unscrupulous mining ventures in western states.[65] In this vein, "Mining projects, development proposals, and get-rich-quick schemes have been inflicted on tribes for years" (Robyn and Camacho, 1998:199). As a result, multinational corporations, under the aegis of neocolonialism, have increased their foothold on Indian country: "With the sanctioning of certain power arrangements by the federal Bureau of Indian Affairs, corporations and federal agencies have pressured, bribed, cajoled, and enticed their way in to mine for strategic minerals" (Robyn and Camacho, 1998:199). They dictate which areas will be geographically sacrificed for the extraction of valuable resources without being held fully accountable for the clean-up of toxic waste they have created and left behind. The systematic degradation of land around the Zortman-Landusky gold mines exemplifies this trend.

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[61] Ambler, *op. cit.*.

[62] John Shurts, *Indian Reserved Water Rights: The Winters Doctrine in Its Social and Legal Context* (Norman, OK: University of Oklahoma Press, 2003), p. 3.

[63] Liu, *op. cit.*; Norris Hundley, Jr., "The "Winters" Decision and Indian Water Rights: A Mystery Reexamined," *The Western Historical Quarterly* 13:1, pp. 17-42.

[64] Grijalva, *op. cit.*.

[65] By neo-liberalism, we refer to those policies that result from politicians and bureaucrats being influenced by corporate interests in maximizing profits at the potential expense of the public interest. While some free-market theorists claim that neo-corporate policies are antithetical to free-market capitalism, neo-corporatism, in this analysis, is considered to be part-and-parcel of free-market economics.

The Toxic Legacy of Heap Leach Mining

Situated along the southern edge of the Fort Belknap Indian Reservation in Montana, Zortman-Landusky was the largest mining operation in the state of Montana when it opened in 1979. Managed by the Pegasus Gold Corporation through its wholly owned subsidiary, Zortman Mining, Inc (ZMI), Zortman-Landusky was developed under the aegis of the 1872 General Mining Law, the Act, which regulates hardrock mining on public lands.[66] ZMI utilized a heap leach mining technique that requires the use of a cyanide solution in order to extract gold.[67]

Heap leaching differs from conventional mining processes (Limerick 2000); it involves using a large amount of cyanide to extract trace specs of gold from ore or crushed rock.[68] This has a deleterious effect on the environment: acid rock drainage, untreated ponds of cyanide solution and waste pilings wash off into the ground and contaminate nearby soil and water supplies.[69] At the Zortman-Landusky site, "acid drainage has been generated from waste rock dumps (as low as pH 3.9), the ore heap retaining dikes, pit walls and floors, and leach pads and pad foundations. Sulfite concentrations have increased in alluvial groundwater downgradient of the heap retaining dikes."[70] Although these concerns were addressed in the 1979 environmental impact statement (EIS) for the Zortman-Landusky mines, the agencies producing the document[71]

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[66] The General Mining Law of 1872 states that "[a]ll valuable mineral deposits in lands belonging to the United States . . . shall be free and open to exploration, and purchase, and the lands in which they are found to occupation and purchase." The Law applies chiefly to hardrock or metallic minerals like gold. Under the Law, anyone may enter federal land to search for and develop minerals without obtaining permission or paying a fee, but a person who discovers a valuable deposit of minerals can secure exclusive rights to remove them simply by locating ("staking") a claim for the cost of $5 per acre. The "locator" then holds the exclusive right to possession and enjoyment of the mineral deposit as long as the boundaries of the location are properly traced and the locator invests $ 100 worth of labor or improvements each year, although there are no provisions for environmental protection. For an excellent discussion, see Carl J. Mayer, "The 1872 Mining Law: Historical Origins of the Discovery Rule," *The University of Chicago Law Review* 53 (1986), pp. 624-653.

[67] U.S. Bureau of Land Management and Montana Department of Environmental Quality, *Record of Decision of the Zortman and Landusky Mines, Phillips County, Montana* (Helena, MT: Montana Department of Environmental Quality, 2002).

[68] Equally problematic is the amount of rock and ore needed to acquire even a small amount of gold: "In many mines worldwide, gold is currently recovered from ores with yields between 0.5 and 13.7 g gold/t rocks. For example, the mine in Kasperske Hory, Czech Republic (TVX Gold Inc.), provides 9.27 g gold/t rocks, and 3,360,000 t tocks were planned to be ground and then recovered by physical and chemical methods." See Friedhelm Korte, Michael Spiteller, and Frederick Coulston, "Commentary: The Cyanide Leaching Gold Recovery Process is a Nonsustainable Technology with Unacceptable Impacts on Ecosystems and Humans: The Disaster in Romania," *Ecotoxicology and Environmental Safety* 46:3 (2000), pp. 241-245, at p. 241.

[69] Patricia Nelson Limerick, *Something in the Soil: Legacies and Reckonings in the New West* (New York: W.W. Norton & Company, 2000), p. 224. Acid rock drainage occurs when sulfite-containing mining waste or rock is exposed to water and oxygen, leading to the formation of sulfuric acid; potential by-products include high-levels of arsenic, manganese, and thallium which all increase the risk of cancer and other illnesses. A significant source of acid rock drainage occurs from the washing off of contaminated waste pilings. After the leaching process is completed, the waste materials that have been sprayed with the cyanide solution are transported to waste dumps where they remain untreated. For a further discussion on the process and effects of acid rock drainage, see Korte et al., *op. cit.*.

[70] James R. Kuipers, Ann S. Maest, Kimberley A. MacHardy, and Gregory Lawson, *Comparisons of Predicted and Actual Water Quality at Hardrock Mines: The Reliability of Predictions in Environmental Impact* (Butte, MT: Kuiper and Associates and Buka Environmental, 2006), p. 180.

[71] The U.S. Bureau of Land Management and the Montana Department of Environmental Quality.

concluded that there would be no measurable impact to surface water. The agencies predicted that "the potential for acid rock drainage development was expected to be low."[72] Thus, the original mitigation effort based on the no-acid prediction failed to include long-term water treatment.

Au contraire, the Zortman and Landusky mines had the potential for high acid drainage; in actuality, they contaminated nearby soil and water supplies for the residents on the Fort Belknap Reservation. A mere three years after the mine opened, acid was found in local domestic water taps following a 52,000 gallons cyanide leak. By then, federal and state officials had overlooked 31 leaks, spills, and other environmental problems.[73] In addition, a 1990 environmental assessment (EA) conducted on the Zortman-Landusky mines wrongly concluded that widespread acid rock drainage was unlikely because rock units at the site were believed to have both acid generating and net neutralizing potential. Yet, the EA recommended, as mitigation, to place contaminating waste rocks on leach pads; years later, the "BLM issued a noncompliance with ZMI for not following this mitigation and ordered waste rock disposal…to cease."[74]

By then, massive environmental harm had been already caused. A 1993 supplemental environmental assessment (SEA) mandated that water treatment centers be constructed at both mines because the "existing water quality…ha[d] already become acidic as a result of waste rock and leach pad leachate" (Kuipers et al. 2006, 56).[75] However, the introduction of water treatment had little or no impact on prior degradation to the surrounding environment, including the waters flowing through the Fort Belknap reservation.

Tribal Agency and Continued Litigation

The failure to fix contaminated waters led the Montana Department of Health and Environmental Sciences (MDHES) to file a lawsuit against Pegasus Gold in August of 1993 for violations of the Montana Water Quality Act. The lawsuit arose after two grassroots tribal groups: Red Thunder Incorporated (RTI) and Indian Mountain Protectors (IMP) had filed citizen suits charging that Pegasus Gold had violated the Federal Clean Water Act.[76] RTI specifically had investigated the environmental degradation at the Zortman-Landusky site and "had obtained documentation showing that sulfide ores – which cause acid mine drainage – had been mined, despite the fact that…Pegasus was neither permitted nor bonded for mining sulfide ores and the

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[72] Kuipers et. al., *op. cit.*, p. 144. A study of 22 mines conducted by the environmental group *Earthworks* concluded "that water quality impacts are almost always underestimated before mining begins." Jane Perlez and Kirk Johnson, "The Cost of Gold: 30 Tons and Ounce," *The New York Times*, October 24, 2005, p. A1. For a good summary of the problems of predicting water quality problems at hardrock mining sites, see Alan Septfoff, *Predicting Water Quality Problems at Hardrock Mines: A Failure of Science, Oversight, and Good Practice* (Washington D.C.: Earthworks, 2006),

[73] Deirdre Guthrie, "Environmental Racism on Montana Reservation" *Z Magazine*, March 1, 1997, available online at:< http://www.zcommunications.org/environmental-racism-on-montana-reservation-by-deirdre-guthrie>.

[74] Kuipers et. al., *op. cit.*, p. 144.

[75] *Ibid.*, p. 56. It is worth noting that the 2001 FSEIS stated, "seepage collection systems are capturing 97% of the total sulfate load and 96% of the total metals load at the Zortman Mine; and 90% of the total sulfate load and 98% of the total metal load at the Landusky Mine." See U.S. Bureau of Land Management and Spectrum Engineering, *op. cit.*, pp. 3-13.

[76] Abel, *op. cit;* Guthrie, *op. cit...*

operation was not designed to handle acids."[77] At the time that the lawsuits were filed in 1993, Robert Thompson, special assistant to the attorney general of Montana, stated that the state's decision to file was prompted by the actions of RTI and IMP. However, he also admitted that the violations cited in the lawsuit had been public knowledge for some time. Basically ZMI had not been met the requests by the state to solve the environmental problems to the satisfaction of the government of Montana.[78] Yet, the state waited until the tribal grassroots developed internal agency to file a lawsuit.

The Environmental Protection Agency (EPA) and the Fort Belknap tribes later joined the lawsuit, charging that the company violated the Federal Clean Water Act by illegally discharging toxins without a permit.[79] Pegasus Gold ultimately settled these lawsuits for approximately $37 million, most of which was used to provide long-term treatment for polluted water.[80] The company signed a consent degree in 1996 that required Pegasus Gold to construct water treatment plants, establish a trust reserve for their long-term operation and maintenance, and implement water monitoring programs on the Fort Belknap reservation.[81] These legal settlements are significant because they indicate that the tribes were able to exhibit a measure of internal agency, "the ability to develop and act on conceptions of oneself that are not determined by dominant, oppressive conceptions" (Abrams, 1995:307), by forcing Pegasus Gold to address the water contamination problems on the Fort Belknap lands.

However, the BLM and the Montana Department of Environmental Quality (DEQ) compounded problems by approving the expansion of mining operations at Zortman-Landusky a total of 21 times.[82] Hence, by 1996 when yet another Zortman mine expansion proposal was approved in the Record of Decision (ROD), the Fort Belknap tribes and the National Wildlife Federation filed suit against the DEQ. In what Foucault might describe as the most successful emerging attempt at joint agency, the plaintiffs challenged the ROD and appealed before the Interior Board of Land Appeals (IBLA) to enjoin any further implementation of this project.[83]

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[77] Guthrie, *op. cit.*, p. 57.

[78] Ibid.

[79] Abel, "The Rise and Fall of a Gold Mining Company,"*op. cit.*; U.S. Agency for Toxic Substances and Disease Registry, *Petitioned Public Health Assessment: Kings Creek (a/k/a/ Fort Belknap Indian Reservation/Zortman Mining Incorporated), Loophole, Baline County, Montana* (Atlanta: Department of Health and Human Services, 1999).

[80] U.S. Agency for Toxic Substances and Disease Registry, *op. cit.*.

[81] The 1996 consent degree also "established temporary water quality standards and obligated [Pegasus Gold] to obtain Montana Pollution Discharge Elimination System (MPDES) permits for each discharge to state waters based on more stringent water quality standards once the water treatment plants and water discharge capture systems were in place and operational." Larry D. Mitchell, *Zortman & Landusky Mines: HJR 43, Water Quality Impacts* (Helena, MT: Montana Environmental Quality Council, 2004) p. 3.

[82] Carlos Da Rosa, Heather Langford, and Ellen Wertheimer, *Righting the Regs* (Washington D.C.: Mineral Policy Center, 1997);. It is worth noting that eleven amendments for expansion were approved at the Zortman mine between 1979 and 1988, increasing the area of disturbance from 273 acres to 401 acres; ten amendments were approved at the Landusky mine between 1980 and 1991 expanding the area of disturbance from 256 acres to 814 acres. Each expansion presumably used the very geochemical analysis tests that underestimated the levels of water pollution at Zortman-Landusky. All told, expansion increased the area of mining disturbance from 529 to more than 1200 acres. Ron Selden, "Fort Belknap Tribes Sue Mining Company", *Indian Country Today*, September 4, 2002, p. A1.

[83] Heather Abel, "The Rise and Fall of a Gold Mining Company," *op. cit.*; Mineral Policy Center, *Six Mines, Six Mishaps: Six Case Studies of What's Wrong with Federal and State Hardrock Mining Regulations and Recommendations for Reform* (Washington D.C.: Mineral Policy Center, 1999). The IBLA subsequently stayed all planned expansion at Zortman-Landusky in June of 1997 while investigating the appeal.

Originally, Pegasus Gold argued that such expansion was necessary to ensure that the mining operation remained economically viable, notwithstanding "static studies performed on Zortman and Landusky ores showed a strong potential to generate acid."[84] In early 1998, however, with the appeal still pending, Pegasus Gold and ZMI withdrew the expansion plans, filed for bankruptcy, and closed down the Zortman-Landusky mines. The company forfeited $30 million in reclamation bonds and, in 2004, voters in the state of Montana approved a ballot initiative banning new open-pit cyanide heap leach mines.[85]

The Demise of Pegasus Gold and Reclamation Shortfalls

After years of severely underestimating the environmental damage caused by cyanide heap leach mining at Zortman-Landusky, Montana state officials had miscalculated the total cost of reclamation. In fact, the $30 million in bonding forfeited by Pegasus Gold proved to be $33.5 million short of the BLM's preferred cleanup plan.[86] Many of the funding problems stemmed from the DEQ's failure to monitor and document expansion at the mines. For example, the initial bond amount did not include costs associated with the mining of sulfide ores since Pegasus Gold never received a permit for that kind of operation. However, evidence showed that the company did mine sulfide ores for years.[87]

In 2000, the Fort Belknap tribes responded by filing suit before a federal district court against the BLM and the BIA. The tribes claimed that the federal government breached its trust obligation by failing to consider how the mining operations would impact the spiritual and cultural importance of the Little Rocky Mountains. According to the plaintiffs, allowing multiple expansions at the mines, and failing to properly supervise these operations resulted in a breach of the federal trust obligation to protect Indian country from the downstream damaging effects of mining.[88]

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[84] Kuipers et. al., *op. cit.*, p. 145.

[85] Mike Dennison, "Mine Cleanup Costs Not Solely on Taxpayers: Debate Intensifies as Mining Companies Ask Voters to Repeal Cyanide-Leach Ban", *Great Falls Tribune*, March 8, 2004, available online at:<. http://www.greatfallstribune.com/news/stories/20040308/localnews/35575.html>. It is worth noting that in November 1998, voters passed citizen's initiative 137 (I-137) formally panning all cyanide heap-leach mining in the state of Montana. The 9th U.S. Circuit Court of Appeals upheld the ban in April 2008: "The decision marks the latest in a series of legal setbacks in state and federal courts for Colorado-based Canyon Resources Corp…The company's journey through the court system includes a failed appeal before the Montana Supreme Court and an unsuccessful bid for U.S. Supreme Court consideration of the case. The mine developers have argued Montana denied them the chance to profitably mine gold and that they were owed money for the unjust taking of property rights…The 9th U.S. Circuit Court of Appeals determined there was no reason to overturn a U.S. District Court decision that dismissed the case on various grounds, including the 11th Amendment." Associated Press, "Mining Company Loses Again in Court over Cyanide Ban", *Helena Independent Record*, April 23, 2008, available online at:< http://www.helenair.com/articles/2008/04/23/state/90st_080423_mine.txt>.

[86] U.S. Bureau of Land Management and Montana Department of Environmental Quality, *Final Supplemental Environmental Impact Statement for Reclamation of the Zortman and Landusky Mines, Phillips County, Montana* (Malta, UT: U.S. Dureau of Land Management, 2001), pp. 2-129-31.

[87] Mineral Policy Center, *Six Mines, Six Mishaps*, *op. cit.*. The mining of sulfide ore exacerbated problems on the Fort Belknap reservation because there are high concentrations of cyanide in sulfide ore; when they degrade high nitrate concentrations are left behind and added to the heap effluent, which trickles into surrounding waters, affecting populations downstream. See Kuipers et. al., *op. cit.*, pp. 144-45.

[88] Ron Selden, "Fort Belknap Tribes File New Lawsuit Over Mining Pollution", *Indian Country Today*, February 18, 2004, p. D1.

After five years of NEPA challenges, in December 2001, the BLM and the DEQ released their FSEIS, relative to the proposed reclamation projects for the Zortman and Landusky Mines.[89] In May 2002, the two agencies made their selection in their ROD out of the original 6 alternative proposals. They selected alternatives Z6 (Zortman) and L4 (Landusky), which called for a more thorough reclamation of the alternatives that were implemented in practice. This governmental decision was made with the proviso that an additional $ 22.5 million for earthwork was going to be allotted for the entire reclamation project. Unfortunately, the ROD contained a clause, which would automatically switch (as it actually did) to lesser effective reclamation plans in case the additional funding was not made available to complete the earthwork.

In response, the Tribes and three citizens' groups filed a lawsuit before a state district court against the DEQ, the agency ratifying the low cost backfill plans. They argued that the shortfalls in reclamation violated a provision in the Montana Constitution that mandates for the full recovery of all lands disturbed by the taking of natural resources. According to the tribes' interpretation of the constitutional provision, reclamation of the mined lands would require a complete backfilling of the unearthed areas. Upon challenging the propriety of the alternative approved in the ROD, tribal members argued that water would remain contaminated under the lower cost cleanup plan. Furthermore, residents of Fort Belknap expressed concern that acid drainage had become widespread in groundwater, in part, because the DEQ underestimated the environmental damage occurring at the Zortman-Landusky mines.[90] Funding shortfalls, they argued, would make it impossible to treat the polluted water in perpetuity.[91]

In 2004, while the voters of Montana were rejecting a ballot initiative put forth by the mining industry to repeal the ban on open-pit heap leach mining, the tribes filed another suit against the BLM, DEQ, and the new mine owner Luke Ployhar. This time the tribes sought increased monitoring and treatment of contaminated water, as well as civil penalties against Ployhar for residual toxins still seeping from the mine site. This additional legal grievance aimed at forcing a cleanup of polluted surface water that flows into the reservation.[92] The Montana state Legislature did ultimately pass a bill in 2005 aimed at allocating $1.5 million a year to treat polluted waters in perpetuity after federal funding expires in 2018.[93] However, mining advocates proclaimed that this legislation providing perpetual water treatment was "an

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[89] A lack of federal or state funding, led to a shortfall that prompted government officials to call for a less aggressive cleanup plan. James R. Kuipers, *Hardrock Reclamation Bonding Practices in the Western United States* (Boulder, CO: National Wildlife Federation, 2000). The original alternative plan that contemplated the full clean backfilling of the mining sites was also eliminated from further consideration due to increased estimated cost. 45 U.S. Bureau of Land Management and Montana Department of Environmental Quality, *Final Supplemental Environmental Impact Statement for Reclamation of the Zortman and Landusky Mines*, *op. cit.*, pp. 2-9-10.

[90] Kuipers et. al., *op. cit.*.

[91] Kuipers, *op. cit.*. Treating water in perpetuity is a process through which polluted water is diverted to treatment facilities and then discharged back into the water supply. At proposed bonding levels, it was anticipated that funding to treat water could run out around the year 2025. Ericka Smith, "Tribes' Attorney Ribs Zortman Plan", *Helena Independent Record*, May 3, 2002, available online at:<
http://www.montanaforum.com/rednews/2002/05/03/build/tribal/mineshuff.php>.

[92] Ron Selden, "Fort Belknap Tribes File New Lawsuit Over Mining Pollution", *op. cit.*, p. D1. According to tribal leaders, the water flowing through the Fort Belknap reservation continued to be so contaminated that even the treatment plants were discharging polluted water. Associated Press, "Tribe Sues over Gold Mine Pollution", *The Associated Press State and Local Wire*, January 29, 2004.

[93] Susan Gallagher, "Mining Supporters Dominate State Hearing on Proposed Rule", *The Associated Press State and Local Newswire*, April 19, 2005.

effort to erode the industry in Montana."[94] In addition, the mining industry challenged before the Montana Board of Environmental Review (MBER) an administrative rule that proposed the toughening of water-quality standards in mining contaminated sites.

Finally, a federal district court judge first and the U.S. Court of Appeals for the Ninth Circuit later dismissed the tribes' lawsuit seeking damages against the BLM.'s decision to authorize the operation of cyanide heap-leach mining by Pegasus Gold. According to the plaintiffs, the BLM's authorization of Pegasus Gold's operations violated the federal trust obligation toward the tribes, since their ancestral sites on BLM lands should have been protected due to their tribal religious importance. However, the courts denied their claims stating that the mining operations took place outside of the reservation boundaries, thus were not subject to the purview of the trust doctrine (Gros Ventre Tribe v. United States). This decision reflects an eerie resemblance to previous case law by the Supreme Court (Lyng v. Northwest Cemetery Protective Association). This rule of law establishes that if an exploitive activity takes place "on public land…there is no such thing as a religious easement for Indian tribes."[95]

DISCUSSION

The application of utilitarian theory to the Zortman and Landusky case study and the controversial environmental destruction of a section of the Little Rocky Mountains should be understood in the historical context of the opening of Indian Country to economic exploitation. This historical and theoretical perusal must begin with the governmental coercion exerted to elicit the signing of the Grinnell Agreement. Due to the westward expansion and the rush for gold, the U.S. government felt the increasing pressure of gold prospectors for a re-acquisition of specific reservation lands back into the public domain. Thus, governmental policies became aimed at furthering the prospecting of land resources: "treaties, the establishment of reservations, allotment…displace[d] Indians' claims upon the natural world in order to open such areas to non-Indians.[96] However, a legal obstacle to the re-acquisition of reservation lands was the federal trusteeship conferred by the Supreme Court to the U.S. government to protect Indian tribes' interests. Clearly, the muster posed by the trust doctrine was not insurmountable; then as now the U.S. government still defines what the protection of the trust doctrine really entails for its "dependent wards."[97] Evidently, a coerced transaction such as the Grinnell Agreement met the constitutional muster.

In the American western frontier, the U.S. government guardianship still operates within the constraints of the ethical rules of economic individualism, using the model of economic man or woman (White, 1988:321). Such view reflects that societal rule that, according to Brandt or Kelsen, is the commonly shared foundation for a given community or nation. In the American western frontier, the governmental actions reflect the will of the rugged individualists who

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[94] Susan Gallagher, "Schweitzer Signs Measure for Fort Belknap Water Treatment", *The Associated Press State and Local Newswire*, January 11, 2006.

[95] Robert A. Williams, Jr., "Essays on Environmental Justice: Large Binocular Telescopes, Red Squirrel Pinatas, and Apache Sacred Mountains: Decolonizing Environmental Law in a Multicultural World," *West Virginia Law Review* 96 (1994), pp. 1133-1164, at p. 1163. It is important to consider that these are the very same lands that were traded under duress per the Grinnell Agreement.

[96] Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation*. (Berkeley: University of California Press, 2003), p. 151.

[97] Ibid.

represent the majoritarian view of society. Thus, we posit that, this majoritarian supported view described as an "impersonal system of political economy," anchors American economic individualism in pursuing its own interests.[98] As White suggests, governmental policies allow the majority to pursue "the market qualities and ambitions of the whites" (1988:287). In the process of fulfilling the rugged individuals' needs, the majority need not consider the effects of pollution on the "other."

If rule utilitarianism inspired American society (will of the majority, federal government, and corporations) it comes as no surprise that the Grinnell Agreement was followed by governmental actions that implemented policies of paternalistic internal colonialism, directed at exploiting the others' natural resources.[99] However, these policies were not only limited at changing the ownership of the lands within the reservation. Attempts at assimilating others into the American way were institutionalized by stressing the importance of economic individualism, e.g. land allotment (White, 1988:239). Thus, the federal government, as a colonial power, deprived the reservation of its self-sustaining form of communal life. Despite being entrusted with the guardianship of their wards, federal agencies sponsored the exploitation of the tribes.[100] As the history of federal government tribal relations has taught us, the transfer of natural resources into the hands of the government would satisfy the economic and developmental interests of the companies, which would eventually exploit them. While the tribes, instead, "received no benefits from it. It was a development program geared entirely to the larger society of which the [tribes] were a colonial appendage" (White, 1988:312).

If these legal precedents maintain policies that perpetuate these deleterious effects in Indian Country with little resistance at the governmental and congressional levels, we should question whether this environmental disaster has reached the dimensions for a majoritarian outcry. However, is it possible that society accepts certain environmentally deleterious practices (mining and its leaching consequences) as long as the price of gold remains affordable? Internal colonialism certainly allows for that to happen;[101] it is a reflection of the societal moral rule or Grundnorm: the rugged or economic individualism of the American western frontier (White, 1988). In the geographies of sacrifice zones of the American West (Kuletz, 1998:85), this Grundnorm allows the exploitation of individuals and natural resources vis-à-vis gendered capital in the name of profit.[102] Indeed, it is in the political economy of the American West that a particular catalyst – economic individualism – allows these practices to happen without a major uproar coming from the social majority.[103]

In this political context, free tribal agency has proved important in bringing the issue of internal colonialism to the public spotlight. Had the tribes failed to file civil litigation, it is

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[98] Nesper, *op. cit.*, p. 6.

[99] Kuletz, *op. cit.*, p. 7-8.

[100] Nesper, *op. cit.*, p. 202.

[101] Kuletz, *op. cit.*. An internal colony typically produces wealth for the businesses that sponsor and support the policies created in the capital area or metropolis. In our case study, powerful companies maintain their political status by the exploitation of resources at the periphery for economic gain. In other words, they harness and appropriate American Indians' natural resources according to the dynamics of corporate America. For an accurate application of internal colonialism in Indian Country, see Thomas Bilosi, *Organizing the Lakota: The Political Economy of the New Deal on Pine Ridge and Rosebud Reservations* (Tucson: University of Arizona Press, 1992).

[102] Nesper, *op. cit.*, p. 103.

[103] Additional research is needed to evaluate whether corporate behaviors, which include profit-maximizing practices using legal or illegal means, and disdain for powerless groups, can be fully reduced to a mentality of "rugged individualism" for shareholders or market driven pressure on a corporation's board of directors.

possible that the subsequent ballot initiatives would not have seen the light of the day. Thus, is it possible that it is not the general public who blindly accepts this type of environmental degradation? Possibly, we tacitly accept it because we are removed from the realities of its consequences. However, once the harm is brought to national attention, and the risk becomes viable to us, then voters tend to polarize against harmful practices.

On the other hand, without media coverage and exposure, the general public acquiesces to the dictates of its normative moral norms. According to the moral utilitarian rule, the supply of a resource meets the demand for majoritarian consumption. By meeting these market demands, mining in Indian country is a profitable enterprise. Mining corporations in the American West, as many critics point out, are able to co-opt governmental agencies entrusted with the management of public lands.[104] The thirst for gold and the greed, which spawns from this request, is the element that prompts our society to accept the eventual environmental catastrophe that modern gold mining techniques have brought upon western lands.   In the American West this has become common practice because of the precepts of rule utilitarianism. The majority accepts to abide by certain foundational rules of supply and demand because it is representative of "essentially normal individuals with normal American values accepting increasingly popular norms."[105]

The socialization of a nation based on the utilitarian pursuit of individual gratification leads its members to perpetrate and/or accept behavior that may negatively impact "the others." Ball states that "when a fierce belief in individualism is stirred into this mixture, it produces individuals who have little guilt perpetrating the most hideous acts…for their own pleasure."[106] As no surprise, this utilitarian bent is rooted in the foundations of capitalist enterprise, which reproduces an ideology complacent with these practices. As posited by Ball, "the resulting behavior does not reflect a failure to socialize individuals, but, instead, an oversocialization in American values of competition, individualism, and materialism."[107] When individuals in our society pursue their own interests, they are socialized into thinking less of the negative impacts of their actions on "the others."[108] Thus, in the American West "a popular culture that values rugged individualism" is the substratum for practices that increase the overall gratification, while discounting the consequent problems of those who are victimized.[109]

Economic individualism is the foundation value of the political economy of the American West (Smith, 2009:10). As theorized by Williams (1994), such value system, reproduced in the statutes and case-law of our nation, helps the white majority into keeping the colonized under its grip.[110] If the American Indian tribes dare to challenge the value system (i.e. the trust doctrine applicability), their claims are readily dismissed since a rigged process decides if and when the protections of the trust doctrine are applicable. Thus, the challenge to the racist value system goes hand in hand with a stance against internal colonialism:

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[104] Louis S. Warren, *The Hunter's Game: Poachers and Conservationists in Twentieth-Century America* (New Haven: Yale University Press, 1997), p. 181.

[105] Michael R. Ball, "Evil and the American Dream", in M.J. Deegan, (ed.) The American Ritual Tapestry: Social Rules and Cultural Meanings (Westport, CT: Greenwood Press, 1998), pp. 31-44, at p. 31.

[106] *Ibid.*, p. 32.

[107] *Ibid.*, p. 32

[108] *Ibid.*, p. 32

[109] *Ibid.*, p. 44

[110] Williams, Jr., *op. cit.*, p. 1135.

If the...narratives of American Indian peoples are to serve as effective and viable paths of resistance against our currently colonized environmental law, then the…racism which has been institutionalized at the deepest levels of our society must also be identified and confronted, for it too is part of a dying colonialism.[111]

CONCLUSION

This case study centers on the belief that internal colonialism is still present in governmental practices regarding American Indians.[112] Thus, it smacks of academic elitism for mainstream authors to declare they hold no stake in this debate, by pretending "that colonization did not happen, that neocolonial arrangements do not continue to exist, and that reservation environments are not regularly targeted for detrimental environmental practices."[113] The perception is that in this case study governmental officials allowed the mines' operator Pegasus Gold, and its subsidiary ZMI to conduct policies of corporate malfeasance with virtually no strict oversight. These policies and the practice of malfeasance do reflect the elements of internal colonialism reflected in a continuing violation of the Supreme Court's trust mandate. For most of the ZMI operation's lifespan, sulfide ores were mined without permit. Furthermore, expansion of the mine operations went virtually unregulated: twenty-one times operations were expanded before the completion of a single EIS. Worse yet, after the Final EIS demonstrated the need for perpetual monitoring and cleaning of the waters flowing downstream into the reservation, still the governmental agencies chose their preferred alternatives, which would not support the recovery into a pristine status of the Little Rocky Mountains mining sites.[114]

When the application of the trust doctrine repeatedly fails to protect the very people for whom the Supreme Court took its original defensive stance, it becomes important to discuss whether the merits of the U.S. government policies and practices involve internal colonialism. Whether governmental failure in its duties takes the form of the original coercion into the Grinnell Agreement, the repeated extensions of ZMI operations, or dismissal of legal claims against the perpetrators and/or supporters of the environmental havoc, the fact remains that the plight of "the others" continues. In this as in other instances, what remains unanswered is the "political call for otherness in a world of unequal power."[115] It just makes us wonder whether the Western rugged individualist realizes that the anathema of eminent domain so much despised by those of us who value the concept of private property was in practice used (under the disguise of the Grinnell Agreement) to dispossess the Gros Ventre and Assiniboine tribes of Fort Belknap of their Little Rockies reservation lands. Was it ever acknowledged the irony of the use of this legal rule (eminent domain) in conformity with the majoritarian utilitarian logic? Some may ask where is the fair market value when the majority coerces "the others" into accepting a price under the Damocles' sword of practical starvation! Ironically, the utilitarian rule of law used to

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[111] *Ibid.*, p. 1136.

[112] Kuletz, *op. cit.*, p. 8.

[113] Ranco, *op. cit.*, p. 50.

[114] Further research is needed to properly evaluate whether this practice is extremely rare (special exploitation of Indian tribes) or actually relatively common (exploitation of less well informed or less politically connected peripheral regions).

[115] Ranco, *op. cit.*, p. 36.

dominate, in an internal colonialist format, these American Indian tribes undermined the very core of their ancestral Grundnorm or societal moral rule, which is, the meaning of land.[116]

Clearly there is a disconnect between what is the priority of the majoritarian view of our society, as reflected by the exploitive actions of governmental agencies and multinational corporations versus the protections of basic interests of the local residents of an American Indian reservation (Cole & Foster, 2001:142). This is demonstrated repeatedly by a nonchalant, borderline cavalier, practice adopted by the U.S. government, at first forcing a land transfer completed under duress, and then licensing environmentally questionable mining operations. Ultimately, the cost of externalities was merely shifted onto "the others."[117] In this case the moral rule shared by the majority disowned the meaning of treaties, agreements or even land sales as long as the American West economic individualism is satisfied.

So be it if we deprive "others" of their lands and resources in order to satisfy the demand for gold. As long as the procedure of rubberstamping corporate transactions in Indian Country is followed, the substance of the moral rule requires the exploitation of resources. Thus, public lands are exploited for the production of gold. In the ensuing conflict, "the others" support a different moral rule: one of protection of land and its cultural and religious meaning (Kuletz 1998:7). In fact, the lands of the Little Rocky Mountains have always been and, despite the devastation, remain sacred territory to the people of the Assiniboine and Gros Ventre Tribes. Thus, the case of the Zortman-Landusky mines stands as a stark reminder of the continuing misappropriation of American Indians' lands and cultural places.[118] However, in a colonial society any claims made by the colonized in defense of sites they view as religious are simply discounted by the majority as "fanatical behavior."[119]

Without some of their legal successes, the people of Fort Belknap, for whom the tainted lands of the Little Rocky Mountains remain sacred places, would have continued to suffer at the hands of a utilitarian system that far too often values economic individualism and its profitability over meanings of place. The acquisition of free agency by successful participants in the legal system is alleviating the environmental problems flowing downstream into the reservation. Certainly, the tribes' efforts have helped sway public opinion on the issue of heap leach mining: Montana voters first banned the practice in 1998 and later upheld the prohibition in 2004. More recently, Governor Brian Schweitzer vetoed a bill that would have effectively ended Montana's moratorium on cyanide heap-leach mining in April of 2011.[120] However, in the historical context of the exploitation of Indian Country, the Zortman-Landusky debacle remains another example of the unabated shifting of externalities on American Indian tribes by the U.S. government in violation of the trust doctrine.

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[116] Keith H. Basso, *Wisdom Sits in Places: Landscape and Language Among the Western Apache* (Albuquerque: University of New Mexico Press, 1996).

[117] Actual cost in terms of price for the item is the primary concern for the consumers, not the cost to society in terms of externalities, which are, in reality, removed from the reality of their daily lives. In addition, we are socialized to believe that gold is desirable as a measure of status.

[118] Ambler, *op. cit.*, p. 192.

[119] Fanon, *op. cit.*, p. 41.

[120] Great Falls Tribune "Schweitzer uses new veto brand on several bills", *Great Falls Tribune*, April 13, 2011, available online at:< http://www.greatfallstribune.com/article/20110413/NEWS01/110413008/Schweitzer-uses-new-VETO-brand-17-bills>.

Book Review: *Emerald City: An Environmental History of Seattle*, By Matthew Klingle, 2007, New Haven, CT: Yale University Press, ISBN 9780300143195, 344 Pages.

Jeffrey Bilbro

The actions a community takes to solve conflicts reveal which members it values and which it considers expendable. By chronicling stories of conflict in a particular locale over the past two hundred and fifty years, Matthew Klingle provides further proof that issues of racial, social, and environmental justice are inextricably interwoven. Any recent book of environmental history would demonstrate as much. But Klingle's study goes further in an attempt to peel back the mechanism that cloaks these injustices: he argues that time and again, Seattleites allowed themselves to be deceived by utopian visions that promised to bring harmony and justice but only exacerbated existing inequalities (264). Klingle's narrative provides important background for city residents who may not know many details regarding the city's development, and it also demonstrates how a complex history can make achieving ecological justice elusive.

Klingle argues that efforts to improve Seattle -- filling tidelands, tapping Cedar River for a clean water supply, regrading the city's hills, creating parks, improving the sewers—were sold as ways to improve the morality of the city but were often driven by utopian visions of the community that excluded those who didn't easily fit into a rigid grid (232). Klingle makes an important point about Seattle history, but his argument is weakened by his lack of sympathy for the city engineers who were forced to deal with a growing town and needed some ideal to guide their work. Certainly, as he argues, their visions of a beautiful Seattle often enabled injustice, but these engineers were dealing with conflicting constituencies who had high demands and didn't want to pay for anything they didn't have to.

Growing up on the outskirts of Seattle, I found the city a very livable place because of the work done by these engineers; residents have inherited clean water, a beautiful park system, and a desire to maintain a healthy natural environment throughout the city. Yet instead of offering a more constructive critique that explores standards by which city planners could have feasibly built the city in more compassionate ways, Klingle too often assigns what seems like an unfair portion of blame on engineers and their biased conceptions of the public good.

One of the first examples Klingle provides to prove his eventual conclusion that "purity is a chimera" and that "the world we live in is a messy fusion of the natural and cultural" (267) is the story of the development of Seattle's tidelands. When I walk along the beautiful Myrtle Edwards Park, just north of Seattle's downtown area, I have a hard time remembering that this apparently natural shoreline is the result of massive fill and development. Klingle's story, then, helps residents and visitors understand the extent to which even some of the beautiful parts of this city have more unsavory pasts, and that the a natural or sustainable appearance may be only that.

Klingle argues that Seattle's tidelands were developed under disingenuous claims for the public good and thus resulted in wealth for a few and loss for the many (53, 59, 62). These vast mudflats presented a problem to early developers who wanted to turn the shoreline of Seattle's raw harbor into valuable real estate: "Unless land remained solid and water remained navigable,

investors would never sink their money into such an impermanent and chancy enterprise" (45). Although tidelands were technically public property, early settlers like Henry Yesler were allowed to illegally fill portions in order to make the harbor usable (51). Then, in the 1880s the city of Seattle granted a railroad company a right-of-way through these tidelands, hoping to lure the transcontinental railroad to the city, which would bring wealth and prosperity for all. Granting tidelands as private property, however, sparked a "frenzied land rush" as speculators quickly drove pilings and erected shacks, creating what Klingle calls "a roughneck Venice" (53, 54). This wood-and-tar shantytown was a tinder box, and in 1889 a massive fire swept through the downtown area, destroying the docks and shoreline buildings.

The destruction of the shoreline reopened discussions about whether tidelands could be claimed as private property. Again, the supposed public good decided the issue, as settlers with existing claims were allowed to keep them in order to encourage reinvestment in Seattle's devastated downtown. This chaotic development of the tidelands not only produced poor living conditions for the inhabitants, it also released many pollutants into Elliott Bay. As Klingle argues, Seattle's transformed shoreline demonstrates how the lines between land and water, culture and nature, and the public good and private interest are not fixed but overlap in messy ways. Private individuals and corporations who learned to capitalize on these blurry boundaries enriched themselves at the expense of the marginalized members of the community. However, the problem underlying the development of Seattle's tidelands was not that they were privatized in the name of a utopian public good, but that they were privatized in the name of a monetary public good. The public good was so narrowly defined that it included little more than the city's short-term economy without considering the long-term costs that residents and the non-human creatures would have to pay. These costs are more difficult to calculate, but current city residents who want a more just relationship with their place and who work to save the remaining shell fish and other tidal creatures have learned the importance of understanding these costs.

The generation of city engineers that led the city through the first half of the twentieth century had an expanded view of the public good; they believed that by "improving upon physical nature" they could also improve "human nature" (86). Klingle focuses his narrative on Reginald Thomson, Seattle's most prominent engineer who developed a two-part plan to create a more equitable Seattle: find a source of abundant, clean water and level Seattle's steep hills. As Klingle argues, "clean water and level land were as much ethical as economic or political goals" for Thomson (95). Driven by his vision of social justice and his engineer's mind, Thomson found an efficient way to accomplish both of these goals; he built a serious of pipelines that brought water from Cedar River to Seattle. By the time the water reached the city, gravity had supplied enough pressure to use the water to wash away Seattle's hills. Between 1900 and 1930, sluices carried approximately 50 million cubic yards of dirt from the hills to the tidelands, leveling the steepest, and poorest, sections of the city (102).

Klingle rightly points out that Thomson's project had many unintended consequences—changes to the flow of the Cedar River that damaged salmon runs, the destruction of poor and minority communities whose neighborhoods were washed away, the creation of "hybrid landscapes" that, often, were "more dangerous and less reliable" than the previous landscapes (106)—but he seems to unfairly castigate Thomson and his desire to improve social order by changing the physical place, concluding that "by linking social progress to the ability to improve nature, Thomson had, unintentionally and ironically, further inscribed inequality and instability into the landscapes of Seattle and its hinterlands" (118). Although Thomson's regrades certainly did not eliminate social inequalities as he hoped they would, it is far from clear that he made

them worse, as his water and sewer works did provide all residents with better drinking water and a cleaner, healthier city, and his view of the public good was more compassionate than the narrow, capitalistic vision that preceded him. Unfortunately, because the city remained strapped for funds, Thomson had to settle for a less extensive sewer system than he wanted, and thus his engineering works began causing environmental damage that later generations of Seattleites would have to clean up.

Throughout the twentieth century, Seattle's engineers attempted to improve the city's environment according to their understanding of the public good. Inevitably, influential private interests had more input in defining this good than did more marginalized members of society. So when John Olmsted designed the city's parks, he did so in terms of a middle class aesthetic, preserving green space where urban residents could reconnect with pure, healing nature. But when some people clamored for more playgrounds and migrant workers wanted places to camp, Olmsted's supposedly democratic parks began to appear more elitist, and the result was that no one got exactly the parks they wanted (135, 147). However, Seattle does have an impressive system of parks today; from the minimally developed University of Washington Arboretum to the playgrounds and green spaces scattered throughout city neighborhoods, these parks offer a range of beautiful places for current residents.

The battle to keep Seattle clean was reenacted when sewage and pollutants in Lake Washington caused thick algae to grow in the popular recreational lake. Because, just as in Thomson's time, the city lacked the funds to adequately fix the problem, they redirected many pollutants into the Duwamish River, whose poorer residents could not fight as effectively as the wealthier people surrounding Lake Washington (210). When the wastewater and factory pollutants caused the already stressed salmon runs on the Duwamish to plummet, much of the blame was displaced on the few Indians who still fished on the river (225). As Klingle argues, these fights and their victors demonstrate how the "more powerful classes and groups . . . dictated the shape of the city. Their own concerns, focused on such issues as aesthetics or efficiency, became putatively public and environmental concerns" (201-02).

Klingle blames much of the unequal distribution of environmental damage on versions of the public good that enable privileged groups to dupe themselves into believing they are acting justly, but instead of offering a nuanced critique of self-serving utopias masquerading as definitions of the public good, he labels all ideals of social justice "environmental utopianism" and argues that an "ethical pragmatism" would lead to more empirically verifiable social and environmental justice (232, 276).

Ironically, however, his final story regarding the attempts to save the dwindling salmon runs demonstrates the weakness of a solely pragmatic approach to environmental problems. When the federal government classified several species of salmon as endangered, they forced the city to take action. Environmentalists, sport anglers, urban residents, suburban residents, businesses, and Indians all had different priorities and fought for different solutions. After a five-year battle, a "habitat conservation" plan was finally approved in 2000 that attempted to reach a compromise between all of these groups but that didn't really address the root problems of urban sprawl, wasteful consumption, and a distaste for any real sacrifice. Thus Klingle approvingly quotes one citizen who called the plan "'a gutless, political choice following the path of least resistance'" (249). In this case, political pragmatism enabled privileged groups to maintain the status quo, just as they had won earlier battles by deploying deceitful versions of the public good.

Klingle's history demonstrates that the places we live in are "messy fusion[s] of the natural and cultural" (267), and that utopian visions that deny this truth often enable powerful private interests to manipulate the landscape for their own benefit. But because his criticisms of Seattle's various visions of the public good fail to distinguish between those who provide excuses to "dominate one another through nature" and those who might actually serve justice (10), Klingle offers a pragmatic ethic of place that is also vulnerable to manipulation.

In his conclusion, however, Klingle does offer a more helpful standard by which any ethic of place should be judged: it should enable people to limit their own use of scarce resources, and it should empower people to find ways to "love locations and people that seem beyond redemption" (279). While attaining this ideal remains elusive, it provides more guidance than his vaguely defined "ethical pragmatism" and, if acted upon, would prevent the kind of compromises that simply push the consequences of environmental change onto the shoulders of those who lack a voice: whether the marginalized members of human society, the living creatures who share our places with us, or our descendants who will inherit the places we leave. Thus, Klingle has much to teach Seattleites and others who seek more equitable environmental conditions; even those with good intentions can deceive themselves into thinking they are serving the community when they are actually only serving a privileged portion of the community. This is an important lesson that should make us act with more humility and be more careful to listen to all those who share our place. But while understanding the complex history of our places is necessary, it won't be sufficient to guide our future decisions unless we also embrace an ethic that, as Klingle hopes, can give the human residents of Seattle the vision and courage to deny themselves and to reach out in love to the people and creatures who seem unlovable.

Book Review: *Wendell Berry: Life and Work*. Ed. Jason Peters. 2007. Paperback ed. Lexington: UP of Kentucky, 2010. Print.

Aubrey Streit Krug

In his stories about the fictional community of Port William, Kentucky, Wendell Berry has presented the idea and the character of the "rememberer." Rememberers are storytellers and builders of community. They are people who recall the past in such a way that joins it to the future, and who bring together the inhabitants of a wounded place into a healing membership. As John Leax writes in his contribution to this volume, Berry's rememberers help us understand memory as Berry himself does: "as a creative force functioning not only in the present but as a source of hope" (66). The way forward becomes visible only through a re-membering of our identity in the context of other humans, non-human beings, and the land itself.

In *Wendell Berry: Life and Work*, we see this re-membering begin to take place. Here, Berry's friends, readers, and inheritors member themselves into a multivalent yet cohesive body to grapple with the importance and implications of Berry's life and work. The writers of this volume often, but not always, agree with Berry's views. They come from places both similar to and different from Berry, and they come to share with us a variety of perspectives upon his work: biographical, literary, political, religious, philosophical, humorous, and earnest. Most importantly, they take Berry's words and actions into serious consideration as one way of living a good life, in this case, a life of farming and writing which—due in part to the thoughtfulness it has been given, and to the ways it has been publically and privately articulated—is worth trying to understand.

This effort towards deeper understanding is important because Berry is both at the heart of and marginalized from American ecological activism (which itself includes a diversity of positions). He is perhaps our most well known "new" agrarian, and his work is crucial to the local foods movement. His pacifism and his unwillingness to support mountaintop removal mining—demonstrated in his 2010 withdrawal of his papers from the University of Kentucky, and his 2011 participation in a nonviolent sit-in in the Kentucky governor's office—have earned him national attention. Yet his life and work have sometimes been dismissed by readers as nostalgic (longing for a simplified, agricultural past) and as utopian (suggesting that such remembered agricultural communities should be humans' only ideal). His celebrated "homecoming" to Kentucky and essays about finding oneself in one's domestic and agricultural work have been misread as an argument that all Americans (regardless of ability or proximity) should move to rural areas and grow their own food. His strident criticisms of technological consumerism have led to him being labeled as backward, hypocritical, even anti-feminist (for a clear-eyed perspective of Berry on this topic, see Barbara Kingsolver's essay "The Art of Buying Nothing" in this volume.

In addition, Berry's proposed small-scale and personal solutions to cultural and ecological problems have been critiqued by activists as impractical, given the global scope of the crises we face, such as climate change. In this anthology, for example, Kimberly K. Smith describes Berry's political positions (her essay here is a useful summary of her book on this topic). Smith finds some of Berry's arguments for localism to contradict his larger points about

ecological interconnectedness. She concludes that rather than just trying to base our security in purely local food systems, we should recognize that secure local systems require actively interdependent communities, and so "promoting local self-sufficiency makes us better citizens, local *and* global" (57).

Eric T. Freyfogle also examines Berry's skeptical view of specialized education and social/environmental movements. (Berry's critiques of movements and of professional activists are provocative, and thus make worthwhile reading for environmentalists. Similarly, as a teacher, I find his critiques of the academy to be quite stimulating, and useful in prodding me to defend and articulate my own practices.) Freyfogle argues that the individual images and characters Berry provides of moral choices don't take us as far as we need to go to make lasting, systemic and cultural changes. The gap between Berry's individual vision and the collective action advocated by conservation movements, Freyfogle states, can't be eliminated through a simple merger, which would make both sides uncomfortable. Instead, for Freyfogle, Berry's challenging ideas must be both critiqued and remembered:

> Berry's moral prophecy supplies a much-needed corrective for the fragmentation of American society. We need Berry more than ever, and his criticism rings true. At the same time, we need to attach this criticism to a realistic understanding of structural change and how it might come about. Power speaks, and small towns and individual people are easily crushed. Berry the writer remains too wedded to Jacksonian democracy and dated images of the independent entrepreneur to give advice on the best means of confronting global capitalism. Just as surely, though, we are cast adrift without his prophecy or something very much like it. Berry holds a mirror to our faces. We would be foolish to look away. (Freyfogle 190)

This conclusion is one that rings throughout the volume: though Berry's particular arguments may have their limitations, they nonetheless must be reckoned with. We ignore him at our peril.

A visiting poet once remarked to me that Berry, in style and cadence, is a preacher; and in this volume, Bill McKibben notes that although it is only recently that Berry's essays have taken up the form of "Roman-numeraled commandment[s]," reading Berry has always been "a little like reading the Gospels" (114, 116). Berry's reliance upon traditionally Christian and Western ideas, images, and rhetorical strategies is, for some, his strength, and for others, his main limitation. In this collection, Bill Kauffman, Norman Wirzba, and Jason Peters, among others, appropriately address the nuances of Berry's religious inheritance, and the ways in which it is manifested in his writing. As with the various essays on Berry's politics and economics— which contextualize his views in light of populism, traditionalism, war, nationalism, and capitalism—these essays help readers *place* Berry's stated beliefs of the life of this world as a gift, and of the health of this world (not another) as our central value.

Berry's most clear, and perhaps most radical, proposal is that human communities must seek coherence in the face of fragmentation. As long as we eat, breathe, have children and educate them, and so forth, we are dependent upon others; to be alive is to be in relationship, and we would do well to recognize this. Berry's understanding of ecological integrity permeates his own work and life—as he has often implied, his farming, marriage, and writing of poetry are all part of the same discipline. Many essays in *Wendell Berry: Life and Work* take up this theme. Berry is usefully compared to other Americans whose lives and work seem to be of a piece, such as Henry David Thoreau (in Jason Peters's introduction) and the series of twentieth-century

agrarians (in Allan Carlson's contribution). Berry's colleagues in writing and farming—such as Scott Russell Sanders, Donald Hall, James Baker Hall, and David Kline—also share informed readings of their favorite of Berry's work, and describe how it has influenced their lives.

The scientist Wes Jackson's story of friendship with Berry, "Letters From a Humble Radical," is one of the most interesting in the collection, as it gives us *new* Berry to read (this essay also appears in Jackson's 2010 book, *Consulting the Genius of the Place*). Jackson shares selections from his and Berry's letters to each other over the years, through which we are able to see Berry's early (sometimes even before breakfast) engagement with new ideas on the page and in conversation with Jackson. Berry's literary values and process are inherent in his critiques of Jackson's writing, and Berry as a writer and teacher comes into our vision as patient yet demanding, cautious yet fiercely eloquent. (This is supported by the first-hand student experience of Morris A. Grubbs, in his essay "A Practical Education: Wendell Berry the Professor.")

Yet Jackson takes care to point out that, in addition to his influential arguments and actions, Berry is memorable for his wit and humor: "And so this is Wendell in correspondence and conversation, consistently radical, back to first principles, humble but not doggy" (172). The Berry that the authors of this volume come together to remember knows how to tell a story and a joke, and to take a compliment from the likes of Wallace Stegner, who once wrote to him that "Your words are good like bread." Stegner's praise—which invokes the vocabulary of local culture, and careful craftsmanship, and of a simple but sacred shared meal—is itself a suggestive image for the pattern of Berry's life and work. In *Wendell Berry: Life and Work*, Berry's diverse body of rememberers seek not only to understand an individual, but to relate that individual to his local place and to the rest of the world, in the hope that doing so enriches the earth we all eat and speak.