

THE SCHOOL OF SOCIAL SERVICE ADMINISTRATION



CHICAGO/SSA

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Advocates' FORUM 2009

A publication by students of the
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School of Social Service Administration

CHICAGO/SSA CENTENNIAL

Advocates' FORUM 2009



THE UNIVERSITY OF CHICAGO
SCHOOL OF SOCIAL SERVICE ADMINISTRATION

MISSION STATEMENT

Advocates' Forum is an academic journal that explores implications of clinical social work practice, social issues, administration, and public policies linked to the social work profession. The Editorial Board of Advocates' Forum seeks to provide a medium through which SSA students can contribute to public thinking about social welfare and policy in theory and practice. Above all, Advocates' Forum will serve to encourage and facilitate an open, scholarly exchange of ideas among individuals working toward the shared goal of a more just and humane society.

EDITORIAL POLICY

Advocates' Forum is published by the students of the School of Social Service Administration (SSA) at The University of Chicago. Submissions to the journal are selected by the editorial board from works submitted by SSA students and edited in an extensive revision process with the authors' permission. Responsibility for the accuracy of information contained in written submissions rests solely with the author. Views expressed within each article belong to the author and do not necessarily reflect the views of the editorial board, the School of Social Service Administration, or The University of Chicago. All inquiries and submissions should be directed to:

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GROWTH by C. Marks
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The University of Chicago
Photographer: Patricia Evans

FROM THE EDITORS

As the University of Chicago School of Social Service Administration celebrates a century of influential and dynamic activity within the field of social welfare, this is an exciting year for *Advocates' Forum*. Proudly presenting a diverse range of voices from within the scholarly tradition of SSA, this issue of *Advocates' Forum* demonstrates the ways in which intellectual pursuits can help realize the goal of social justice. This issue was produced with the idea of harnessing the School's legacy of critical examination of the social, cultural, political, and economic forces within which social workers and the people they serve work and live.

This issue aims to stretch traditional boundaries of social work inquiry with its attention to complex aspects of contemporary life and social welfare concerns. Thematically, the articles presented in this issue share a focus on human interaction. They consider the individual and family, the community and neighborhood, and broader political and economic systems. Particularly salient in the field of social welfare is the way each piece takes into account the interactions between individuals or groups and the larger systems within which those individuals or groups are embedded.

In "Striking a Better Balance between Child Safety and Parental Rights," J. Michael Tower analyzes a crucial aspect of the child welfare system, the efficacy and accuracy of risk assessment tools. His article attempts to intervene in a system fraught with ethical complexities and wide-reaching implications for parents, children, and social workers.

Kimberly Lux explores a divide within feminist thought regarding the nature of sex work. Her piece, "Work, Violence, or Both? Framing the Sex Trade and Setting an Agenda for Justice," illuminates critical differences in feminist representations of sex work and sex workers. It illustrates the complex processes of

contextualization and framing, including the political effects of such advocacy and the nuances within such a contentious debate.

In “Moving from Retributive to Restorative Justice in Community Schools,” Margaret Leah Corey presents the case for wider implementation of restorative justice methods in community schools and beyond. Her work calls for more active and engaged roles for students, particularly in the formation of their identities as community members.

Kathryn Saclarides analyzes the spatial politics of urban community life in the contemporary United States. Drawing upon a case study of a Mexican neighborhood in Chicago, “Selling Chicago as a Global City: Redevelopment and Ethnic Neighborhoods” outlines the political and economic forces that change the nature of cultural identity at the community level. It explores how market forces seek to commodify and reify the ethnic character of spaces in order to market a community for consumption.

Finally, Charity Samantha Fitzgerald examines the social, political, and economic factors surrounding the passage of the Central American Free Trade Agreement (CAFTA) in Costa Rica. In her article, “Toward a Central American Fair Trade Agreement,” she carefully examines the campaigns for and against CAFTA that were pursued in Costa Rica and throughout the Western Hemisphere. She then not only argues for “fair trade,” but also describes the role social workers can play in facilitating civil society participation in the development of international trade policy.

Students of the Centennial class continue to honor the tradition of SSA’s founders by critically examining and heightening awareness of pressing social issues, collaborating to provide solutions, and leveraging resources to support initiatives that encourage social justice and welfare. We proudly present the 2009 issue of *Advocates’ Forum*, a reflection of SSA’s deep commitment to these ideals.

Kathryn Saclarides
Elizabeth Taylor

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WORK, VIOLENCE, OR BOTH? FRAMING THE SEX TRADE AND SETTING AN AGENDA FOR JUSTICE

Kimberly Lux

University of Chicago

Abstract

This paper examines the feminist debate over the sex trade. It highlights two primary sets of activists and their creation of opposing frames and policy agendas. The paper briefly describes how each side has socially constructed issues pertaining to the sex trade industry. The paper draws upon Benford and Snow's (2000) conceptions of framing processes to identify how each group has accomplished core framing tasks in pursuit of a specific policy agenda. Utilizing notions of master frames, framing resonance, and frame credibility, the essay explores each group's successes and challenges in setting the desired agenda. Finally, the author applies Kingden's (1995) "criteria for survival" and Nelson's (1987) notions of valence and position issues to analyze the context in which each group has met with success or resistance.

*"I tell a woman
 what work I do for money
 Don't you ever feel afraid?
 ...Yes, I'm afraid
 Sometimes I try not to feel afraid
 Four months ago I was raped
 I was afraid of being tortured or killed."*

— Carole Leigh from "Telling a Woman/Driving at Night"
 (Delacoste and Alexander 1998)

*"...being a sex worker I've never felt like a victim
 I've felt more in control of my life than I ever did before."*

— Kelly (Weatherall and Priestley 2001)

In the epigraphs above, Carole Leigh and Kelly offer two very different views of life in the sex trade. Their contrasting snapshots are representative of the two poles of today's feminist debate over the sex industry. Radical feminists argue that the sex trade is inherently exploitive and an ultimate manifestation of systemic violence against women. They therefore argue for the abolition of the sex trade entirely and may aptly be called abolitionists (Saunders 2005). On the other hand, liberal feminists argue that autonomy over one's body includes the right to offer a sexual service in exchange for money, goods, or other services. In this way, liberal feminists view participation in the sex trade as work, and in turn call for decriminalization and/or regulation of the industry and may be referred to as "non-abolitionists." This paper explores the ways in which each set of feminist activists construct their claims, both independently, and in response to one another.

The emergence of these two distinct feminist conceptions of the sex trade industry and their respective calls to action can be best illuminated by applying the fundamental concepts of social construction scholarship, including collective action framing and agenda-setting. First, Benford and Snow's (2000) conceptions of framing processes are used to identify how each group has accomplished core framing tasks in pursuit of a specific policy

agenda. Utilizing notions of master frames, framing resonance, and frame credibility, the essay then explores each group's successes and challenges in setting the desired agenda. Finally, Kingden's (1995) "criteria for survival" and Nelson's (1987) notions of valence and position issues are employed to analyze the context in which each group has met with success or resistance. This paper does not attempt to reconcile the tensions that exist among feminist views of the sex trade. Rather, it aims to explore the frameworks of a rapidly growing and increasingly heated debate, the strategies utilized by both sides to advance their cause, and the potential areas of common ground from which activists may strengthen their ability to improve the lives of women in the sex trade.

This paper will refer to "women in prostitution," "women in the sex trade," and "sex workers" in an effort to acknowledge the range and complexity of the conflict that permeates the language used to describe women within the sex industry. Many feminists, helping professionals, and women engaged in the sex trade have shifted their use of language when referring to the act of exchanging money, goods, or services for the performance of a sex act. More and more, scholars, activists, and political lobbyists have replaced the word "prostitute" with "sex worker." "Sex worker" may be used to describe not only women in prostitution, but also women who are compensated as strippers, exotic dancers, actors in pornographic films, escorts, brothel workers, and telephone sex line operators, to name a few of the activities that constitute the sex trade.

In addition to qualifying the choice of terms throughout this paper, it is important to acknowledge the limitations of this analysis. This paper focuses primarily on the issue of illegal sex work, as it manifests on the street, in brothels, in upscale escort services, behind closed curtains in strip clubs, at private parties, and in numerous other settings. While legal sex work may include afore mentioned acts like stripping, acting in pornographic films or photographs, and providing sexual stimulation over the phone, and while these industries often lead to and/or can be conflated with prostitution, legal sex work introduces additional discourse and agenda-setting efforts beyond the scope of this paper. Furthermore, although some female sex workers service other women, and while male prostitution and prostitution by individuals who are transgendered exist and deserve special attention and consideration, this paper will focus on the phenomena of women

trading sex acts for goods, money, or privileges that are provided by male customers, or “johns.” Such a focus intentionally reflects the disproportionate representation of women as the sellers and men as the buyers of sex acts (Weatherall and Priestly 2001).

Despite significant ideological differences between those who would abolish prostitution and those who would instead reform policies impacting the sex trade industry, both groups construct the same diagnostic frame. That is, both identify the problem as a gendered issue where women in the industry face marginalization and oppression. Both groups note the disproportionate representation of women as sellers of sex and men as buyers of sex, and the fact that prostitution is illegal and largely constructed as a vice by American society. The feminist diagnostic frame, therefore, demands that women currently engaged in the sex trade have access to safe and autonomous lives. This may be seen as an “injustice frame” (Benford and Snow 2000) or a frame that would identify the subjugation of a group of individuals. It logically follows that members of the subjugated group and their advocates would attempt to locate the source of that group’s subjugation. What Benford and Snow call the “attributional aspect of diagnostic framing” (2000, 616) is often a point of contention among groups or individuals advocating for social change that will benefit the same group. And so it is with feminists’ differing views of the source of sex workers’ oppression.

Again, radical feminists seek to abolish prostitution, which they define as inherently exploitive and coercive (Wahab 2004; Weatherall and Priestly 2001). Proponents of this view believe that prostitution is rarely (if ever) entered into freely and claim the reasons women stay in prostitution are similar to the reasons women stay in abusive relationships. To support this claim, they cite high rates of physical, sexual, and psychological violence in the lives of women in prostitution, both before and during their engagement in the sex trade. This abolitionist view sees the high rates of prostitution among homeless women and girls and a preponderance of women trading sex for survival needs as evidence of the exploitive nature of the sex trade. Intersections between prostitution, racism, and classism, as well as high numbers of women and girls entering the sex trade before the age of eighteen, are all underscored by the abolitionist position that sees the sex trade as preying on society’s most vulnerable groups

(see Carter and Giobbe 2006; Farley 2006; Center for Impact Research 2002; Mayor's Office on Domestic Violence 2006).

In this way, radical feminists understand the sex trade to be embedded in patriarchy in particularly severe and overt ways. The sex trade is thus equated with sexual exploitation more generally, but in this context, radical feminists place special emphasis on the accountability of those who buy sex as well as third-party "managers" or "pimps," since they are the ones creating the demand for the trade. For radical feminists, the sex trade is a distinct form of violence against women and the quintessential manifestation of patriarchy (Kesler 2002).

Liberal feminists view radical feminists' opposition to the sex trade as paternalistic and contrary to the feminist ideals of female self-determination and sexual liberation. While advocating for the rights of women in prostitution and working to de-stigmatize the sex trade, liberal feminists reject the notion that sex workers are victims in need of rescue (Wahab 2004; Weatherall and Priestly 2001). Instead, they conceptualize participation in the sex trade as sex work, which allows sex workers to be viewed and respected as legitimate laborers deserving the same rights as other workers.

The opposing frames of the sex trade, as violence and as work, act not only as frames in and of themselves, but also as counter frames to one another. For instance, while Melissa Farley (2006) demands the elimination of commercial sexual exploitation, she argues that framing prostitution as work normalizes the sex trade and silences the violent and exploitive reality of the industry. In turn, Joanne McNeil (2008), a supporter of the rights of women to engage in sex work, maintains that views like Farley's subvert notions of gender equality by infantilizing women.

Radical and liberal feminism are not the only categories of feminism or social theory with which to frame the sex trade. Radical sexual pluralist theorists (Wahab 2004), domination theorists (Wahab 2004), and sex radical feminists (Weatherall and Priestly 2001) all attempt to define the sex trade industry. But since radical and liberal feminism reflect the influential theories, this paper is focused on them. It is relevant to note, however, that the contributions of Marxist feminists (Kesler 2002) are never far from these two perspectives, contributing an emphasis on the role of capitalism in the oppression of sex workers (Wahab 2004; Weatherall and Priestly 2001). Radical

feminists seeking to abolish prostitution will sometimes equate the sex trade with the exploitation of sex workers based upon the Marxist feminist premise that all work is potentially exploitive (Wahab 2004). At the same time, feminist groups supporting prostitution will use the same frame to point out the misguided attempts of anti-prostitution advocates to eradicate that which is no more exploitive than other forms of work (Kesler 2002).

These contentious diagnostic frames lead to distinct prognostic and mobilization frames as each group employs a call to action that emphasizes respective prognoses. Benford (1993b) refers to “vocabularies of severity, urgency, efficacy, and propriety” (Benford and Snow 2000) used by social movement organizations (SMOs) to advance each group’s respective motivational frames. Both sides of the feminist sex trade debate utilize framing activities that fit within those vocabularies. Since framing activities vary from SMO to SMO (Benford and Snow 2000), the discourse that results from completion of framing tasks has the potential to incite both sides to defend their frames against the other’s criticism, as well as to prepare their frames in anticipation of the criticism they know is to come.

An example of this process is the liberal feminist argument that those calling for the abolition of the sex trade inflate statistics of sex workers experiencing violence (McNeil 2008) and ignore the statements of many sex workers who testify that prostitution is a viable and freely chosen employment option (see Farley 2004).

In light of the glaring polarity of the two groups’ prognostic frames, it is interesting to note the similar strategies with which each side strives to enhance the resonance of their message. Both groups engage master frames and call upon empirical evidence to lend credibility to their stance. Given the marginalized status of all work pertaining to the sex trade, however, both groups struggle to establish “experiential commensurability,” which is a measurement of how closely targets of mobilization can identify with the frame utilized by any group (Benford and Snow 2000).

This challenge will become clear after highlighting how both abolitionists and non-abolitionists pursue frames they hope will advance their respective policy and organizational agendas. As abolitionists and non-abolitionists put forth their respective agendas, they utilize a mobilization framing vocabulary and a master frame to garner support for each agenda item. An analysis

of the degree to which each side achieves resonance and credibility for their frame reveals that the cultural credibility of both frames potentially fails in the social arena beyond the feminist movement.

The agenda of those seeking to abolish the sex trade includes demand deterrence campaigns, laws that invoke greater penalties for purchasing sex and for “pimping,” as well as outreach and education efforts aimed at service providers, including police officers, public defenders, domestic violence and sexual assault workers, case managers, advocates against homelessness, emergency shelter staff, DCFS workers, etc. (Farley 2006; Raphael and Shapiro 2002; Mayor’s Office on Domestic Violence 2006).

This approach is perhaps best illustrated by Sweden’s response to the sex trade. In 1999, legislation was passed which made the purchase of a sex act illegal while ensuring that the exchange of sex for money would bring no legal penalty (Ekberg 2004). The law reflected the position of the Sweden’s Women’s Movement, which long advocated for legislation that would strike at the demand for the sex trade and avoid the re-victimization of women in prostitution.

Jenness and Broad (1994) have identified the language of sexual terrorism as one of very few “master frames” prone to achieving cultural resonance (as cited in Benford and Snow 2000) and radical feminists indeed equate the sex trade with sexual violence directed against women. In order to mobilize support, they use the language of severity and efficacy, while providing empirical evidence that highlights the experience of violence among women in the sex trade. For example, Farley (2003) draws attention to the occurrence of posttraumatic stress disorder in 68% of sex workers surveyed in nine countries (2004)¹ and draws a parallel between prostitution and state-sponsored torture: “Like the state’s torture experts, pimps and traffickers threaten to kill children and family members as a means of establishing control. Pimps’ use of torture ensures that the prostituted woman will comply with any demands of johns or pimps... physical assaults (called seasoning by pimps) are used against women in prostitution” (2006, 117). In another example, the Center for Impact Research (CIR 2002)² draws attention to the percentage (nearly one-fourth) of women in prostitution who have been raped more than 10 times, and they report that this figure is essentially the same among women selling sex from the streets, from within their own home, and through escort agencies.

Feminist advocates of the sex trade employ their own master frame, namely choice. Indeed, one of the hallmarks of feminist thought is the right to have autonomy over one's own body, and liberal feminists believe that attempts to abolish prostitution violate that right (Wahab 2004). They argue that if sex work is work like any other, perhaps even work that is more empowering and more lucrative than jobs like waiting tables (Wahab 2004), and if sex workers are to be viewed and respected as legitimate laborers who deserve the same rights as other workers, then sex workers who have chosen the profession must be given the rights to regulate their trade, have legal recourse for abuses incurred on the job, and the right to unionize (Saunders 2005). Because liberal feminists do not emphasize a sex worker's exposure to physical danger, despite often making recommendations for harm reduction efforts, they rely on a framing vocabulary of propriety, invoking the full realization of women's self-determination as the principled, just, or "proper" thing to do.

Of course, as Benson and Snow (2000) point out, framing credibility relies heavily on the internal consistencies within a movement, and both sides of this debate struggle to maintain that credibility. On the one hand, radical feminists calling for the elimination of the sex-trade exhibit an agenda that contradicts feminist notions of self-determination, sexual autonomy, and treating each woman as the expert on her own life. Similarly, liberal feminists run the risk of minimizing both obvious and subtle forms of violence against women in prostitution, including forced prostitution and rape, as well as the act of "choosing" sex work as a viable option because one has no other means to survive.

Each side of the debate is further challenged by a lack of saliency within society at large. According to Benford and Snow (2000), saliency has three parts: centrality to audience targeted for mobilization, experiential commensurability, and narrative fidelity or "cultural resonance" of the frame to the targeted audience. Liberal and radical feminists clearly target one another in their counter frames, and they certainly also target women in the sex trade for mobilization. For each of these groups, framing saliency will almost certainly exist on all three fronts. Consistent with the overall feminist frame, both liberal and radical feminists will necessarily target society as a whole, or to be more specific, the patriarchal society in which Americans live. From this

perspective, the greatest obstacle to framing saliency for both groups is the subject matter itself. Society's general response to the sex trade often fails to take a critical view, reducing sex work to either a biological normalcy of the unbridled male libido or a threatening aberration from the moral fabric of American life. The public discovery of former New York Governor, Eliot Spitzer's purchase of sexual services from a woman at an escort agency has unleashed a whirlwind of press coverage, not the least of which pays significant attention to a "boys will be boys" defense of Spitzer's behavior and a surge of daytime news programming offering women tips on how to stop their husbands from straying, including suggestions to take strip tease classes (Stanley 2008). The public response to this sex work "scandal" reflects an important difference between the agendas and beliefs of those engaged in the feminist debate over the sex trade and those of society at large.

Saliency is not only important in terms of its framing efforts, but also as it applies to SMO's actual agendas. The same forces that would frame the lives of sex workers as either a natural object of male sexual desire or as a moral threat to the integrity of the American family would likely work against both groups' agendas. Agendas on both sides of the debate lack what Kingden (1995) would call "value acceptability," one of the criteria necessary for an agenda's survival. One way SMOs have the potential to increase their value acceptability is through domain expansion (Jeness 1995). Indeed, abolitionists have already found a degree of success by incorporating their agenda into the larger and more established arenas of domestic violence, sexual assault, and homelessness. Evidence of this success in Chicago is apparent in the work of the Mayor's Office on Domestic Violence as well as the Chicago Coalition for the Homeless Prostitution Alternatives Roundtable. Similarly, non-abolitionists have found increased support by aligning their agenda with queer activism (Kesler 2002) and harm reduction activities, particularly in conjunction with HIV/AIDS outreach and prevention (see Jeness 1990).

Both groups have a positive degree of technical feasibility (Kingden 1995) since the policy agendas for which each side advocates already have existing templates available for emulation. Abolitionists will of course call upon Sweden as an example of best practices (Ekert 2004), but Sweden's overt efforts "to create a contemporary and democratic society where full gender equality

is the norm” (Ekert 1995, 1188) may differ somewhat from the current political climate of the United States and its perspective on the role prostitution plays in the pursuit of gender equality. Advocates of the sex-trade arguably have the advantage in terms of technical feasibility, given that more models of legalization and regulation of the sex trade exist than those that criminalize the buyer and decriminalize the seller, including policies employed by Canada, Mexico, the Netherlands, and the state of Nevada.

Again, the greatest future constraint facing both sides of the debate is likely the level of value acceptability to society at large (Kingden 1995). Nelson (1984) draws an important distinction between valence issues and position issues, describing valence issues as problems that are constructed in a non-controversial way and position issues as problems whose source lies with structural forces. While activists on both sides of the debate can arguably craft a frame and corresponding agenda for change that would constitute a valence issue (violence against women is wrong; government should not stand in the way of your personal freedoms), both sides of the feminist debate on the sex trade clearly construct the problem as a position issue. Despite their disagreements, those who call for the elimination of the sex trade and those striving to lift restrictions and stigma from sex work identify a capitalist patriarchy as the root threat to the safety and autonomy of women impacted by the sex trade (Overall 1992).

Thus, an examination of two major feminist perspectives on the sex trade reveals a significant divide among feminists identifying as advocates for women in prostitution. This divide impacts the framing activities of the two groups as well as their respective agenda setting processes and the likelihood that their agendas will be implemented. Given the divisive nature of the debate and each group's potential to hinder the movement of the other in the future, it is imperative to recognize that the individual women in the sex trade likely identify with both sides of the issue, both at different points in their participation in the sex trade, and simultaneously in any given moment of their lives (Weatherall and Priestly 2001). As Christine Overall (1992) suggests, the divisive nature of the debate among feminists and sex workers, as well as the patriarchal function of “divide and conquer,” has insidiously crept into the work of feminist advocates working toward autonomy and safety for women. Given the mainstream views of

prostitution outlined above, it seems unlikely that real change can be accomplished in the lives of women impacted by the sex trade if their advocates remain fundamentally divided from one another.

Perhaps advocates for women in the sex trade can find common ground in the lived experiences of those for whom they advocate. Perhaps they can join together to fight the capitalist patriarchy itself, instead of one another.

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NOTES

¹ Farley’s (2004) article, “Bad for the Body, Bad for the Heart: Prostitution Harms Women Even if Legalized or Decriminalized,” has been criticized by Ronald Weitzer (2005) for methodological research flaws resulting from “ideological blinders” (934). Farley (2005) has published a response to Weitzer’s criticisms, and both works are listed in this paper’s references. These articles reflect the tension and distrust that characterizes much of the debate regarding harm associated with the sex trade.

² Ronald Weitzer’s (2005), “Flawed Theory and Method in Studies of Prostitution,” also criticizes research results of The Center for Impact Research.

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TOWARD A CENTRAL AMERICAN FAIR TRADE AGREEMENT

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Abstract

The paper presents an argument for the political potential of civil society in the formulation of international trade agreements and the role social workers can play in facilitating civil and political participation. It uses the case of the debate over the Central American Free Trade Agreement (CAFTA) in Costa Rica to illustrate both the political problems free trade agreements engender and the forms of political participation emerging in response. The paper's fundamental claim is that while free trade treaties can erode human economic and political rights, civic and political rights can be strengthened through direct participation in the formation of "fair" trade agreements.

In February 2007, a poll conducted by the Costa Rican newspaper *Al Día* found that 47.2% of Costa Ricans supported ratification of the Central American Free Trade Agreement (CAFTA) and 34% opposed it (Rojas 2007). Given that many members of dominant Central American political parties had vested financial interests in ratification (Audley, Papademetriou, Polaski, and Vaughan 2004), it is not surprising that the Costa Rican legislative assembly created a special review committee to fast-track the treaty through the legislative process, an exception-making occurrence that mimics what Seyla Benhabib (2006) has observed globally. Those opposing the trade agreement nonetheless responded vehemently to the attempt to bypass debate.

In late February 2007, some 200,000 protestors marched, and opposition leaders succeeded in initiating a signature collection that pressured President Oscar Arias to authorize a referendum that would allow voters to choose whether to ratify or reject CAFTA (McPhaul 2007). Said Arias, “For the first time, Costa Ricans... will be able to directly decide the future of a very important law for the country” (as quoted in McPhaul 2007, ¶3). On October 7, 2007, 60% of the Costa Rican electorate took to the polls (Oviedo 2007), and by a margin of 49,030 votes, or 3.2 percentage points, the treaty was ratified (Rodriguez 2007). Though the opposition lost the vote, it had successfully politicized trade policy and helped form a social movement.

This paper argues that resistance to CAFTA is evidence that there are arguments against status quo trade politics demanding to be heard. It uses the Costa Rican case to explore the possibilities of civil society contestation of existing trade agreements.

Theoretically, the domestic policies of nations like Costa Rica are embedded within, or must be changed to accommodate, international norms dictated by bilateral and multilateral agreements, such as CAFTA. In Costa Rica, certain CAFTA provisions might require amendment to the constitution (Solís 2007a). Thus, domestic policy becomes subordinate to international trade policy. The discrepancy between global economic integration and local politics has deleterious consequences for much of the world’s population. Decisions that have profound impacts are made

at a great distance and with little input from the people whose lives they affect. Therefore, forms of fair trade need to replace the treaties of free trade. Such fair trade arrangements mean trade as a form of exchange conducive to the fulfillment of civic, political, economic, social, and cultural rights as defined by the United Nations. Fair trade rejects placing states in the service of trade policy and instead subordinates trade law to human rights law (Chandler 2006). In particular, a fair trade agreement would include clauses to prohibit child labor, to establish labor standards, to protect the environment, to mandate gender equity in employment decisions and compensation, to promise food security, to abolish unfair subsidies, and to protect the provision of public goods and services. Most importantly, a fair trade agreement would not blanket all nations with the same terms. Instead, the agreement would support each nation's endeavors to protect and to promote human rights.

This paper draws attention to the need to open channels for civil society consultation and political participation in all stages of trade policy-making in order to promote and to protect human rights. An assumption of this paper is that civil society consultation and political participation would bring about such fair trade.

The paper is divided into four sections. The first historically contextualizes CAFTA. The second presents the opposition's arguments against CAFTA. The third expands focus from specific arguments against CAFTA into broader critiques of free trade regimes, where webs of asymmetrical power relations allow economically powerful countries to impose hypocritical and unjust terms on its so-called trade partners. Finally, in the fourth section, the paper presents a normative model—assuming that the enactment of civil and political rights will facilitate the fulfillment of economic, social, and cultural rights—for civil society consultation and politicization of trade agreements, as well as presenting implications for social work practice.

THE EMERGENCE AND TERMS OF CAFTA

CAFTA was decades in the making, a step in a long process in what its preamble calls “hemispheric integration” (Dominican Republic—Central American—United States Free Trade Agreement [DR-CAFTA], 2004). CAFTA was designed to eliminate trade barriers among the countries of the Dominican Republic, El

Salvador, Honduras, Guatemala, Nicaragua, Costa Rica and the United States. Ostensibly, the agreement aims to open markets for agricultural products, manufactured goods, and textiles. Additionally, it promises to open markets for services, ambiguously defined to include sectors like telecommunications, tourism, and transport. It also putatively promises to promote workers' rights, to protect the environment, to safeguard investments, to strengthen customs operations, to acknowledge intellectual property rights, and to foster transparency.

The treaty stems from openness to trade both within and outside Central America, an openness which began in the 1990s and has endured to the present day. Costa Rica first entered bilateral trade agreements with countries like Mexico and the Dominican Republic in the 1990s. Other countries followed suit, establishing their own bilateral agreements and creating a "spaghetti bowl" of arrangements (Jarmillo, Lederman, Bussolo, Gould, and Mason 2006). These intricate channels revitalized the Central American Common Market, initially founded in 1961, and stimulated intraregional trade. The Caribbean Basin Initiative (CBI), founded in 1983 and expanded in 2000, gave Central American countries preferential access to U.S. markets. By 2000, the initiative had eliminated duties on 75% of Central American exports to the United States (Jarmillo et al. 2006). The United States, before CAFTA, initiated the Free Trade Area of the Americas talks, but they broke down in 2003 and CAFTA later emerged as another vehicle for hemispheric free trade.

The results from such free trade agreements are mixed. Central American countries have reduced trade barriers, increased trade volumes, and diversified trade, but have not seen the expected economic growth nor have they experienced a reduction of poverty. Such disappointing results from previous free trade arrangements undercut U.S. Trade Representative Robert Zoellick's assertion that "these small countries took a courageous decision to seek a free trade agreement with their giant neighbor to the North" (Office of the United States Trade Representative [USTR] 2005b, 1).

The United States, conversely, stands to gain more from CAFTA than Central American countries because these countries already have preferential access to U.S. markets through the CBI. Central American countries comprise the 10th largest market for the United States (USTR 2005a), a market over which the

United States has striven to maintain control. Additionally, the Bush administration pursued CAFTA for reasons beyond those related to economics, including security. The United States perceived threats to its interests in the region posed by Cuba's Fidel Castro and Venezuela's Hugo Chavez and the stipulations of CAFTA are such that only capitalist democracies can fulfill the document's stipulations. Thus, the treaty ensures the continuation of capitalist economies in a region that has drifted to the left politically. As one author noted, the treaty could accomplish what the war in Iraq could not (Barnes 2005).

According to Solís (2007c), when it came to CAFTA, the White House spread false rumors the day before voting that the United States would eliminate Costa Rica's preferential access to United States markets if it failed to ratify the treaty. Mark Langdale, the U.S. ambassador to Costa Rica, issued these threats to mobilize CAFTA proponents (Council on Hemispheric Affairs 2008). This fear mongering, according to Solís (2007c), was unfounded since CBI, the policy that guarantees preferential access, is a permanent agreement, and the Bush administration's empty threats outraged certain members of the U.S. Congress (Council on Hemispheric Affairs 2008).

While the U.S. threats may have been hollow, Oscar Arias, the President of Costa Rica, nonetheless acquiesced to the Bush administration's position. "We are forced," Arias said, "to belong to the global economy, as long as the (World Trade Organization's) Doha round of talks flounders, partly because of selfishness, lack of vision and hypocrisy among rich countries which maintain their protectionism and agricultural subsidies" (Zueras 2007, ¶18). In speeches, President Arias seems to acknowledge the asymmetry of trade agreements, which amount to unfair terms and a lack of voluntary commitment to these terms. Still, his administration touted CAFTA. Days before the referendum, a memo addressed to President Arias from Vice President Kevin Casas surfaced. It urged the use of "dirty tricks," such as threatening mayors who did not ratify CAFTA with a loss of funding (Council on Hemispheric Affairs, 2008) and the general public with the prospect of job losses (Casas and Sanchez 2007). Arias's political party, the *Partido Liberación Nacional* (PLN), employed these scare tactics.

CAFTA CONTESTATION

In 2005, Ottón Solís based his campaign as the *Partido Acción Ciudadana* candidate for the Costa Rican presidency on an anti-CAFTA platform. While not an opponent of all trade, he argued strenuously against the CAFTA plan. After the referendum codified the agreement into law, he expressed this opinion through the progressive news outlet TomPaine.com:

We are proud that our health and environmental policies are, by far, the best in the region, that our democracy is founded on an extensive system of family farming, that our telecommunications services are lower priced and more efficient than those of our neighbors, that we abolished all military forces 60 years ago, and that our laws forbid the trade and production of weapons and their parts. All these sources of national pride are threatened by CAFTA. (2007c ¶2)

According to Solís (2007c), CAFTA erodes national sovereignty and social welfare, citing the intellectual property protections that would impede the provision of generic medicines at affordable prices. More broadly, he argues that CAFTA is for the benefit of the few, who at the time, employed strong-arm tactics and spent millions of private dollars in an attempt to bulldoze the measure through the legislative process without due process. Solís noted then: “CAFTA is very good for multinational corporations and *a very small elite of Central Americans*” (emphasis added, ¶6), an assertion which echoes Chimni’s (2006) observation that the elite of developing countries may act in concert with the elite of developed countries, thereby consenting to policies that have deleterious consequences for the general populace. Solís (2007a), therefore, opposed CAFTA on the grounds that the negotiations lacked fairness, transparency and sufficient parliamentary discussion. In an op-ed piece published in *La Nación*, a well-respected and widely-read Costa Rican newspaper, he pointed out the treaty had been drafted in another country, read by few, studied by even fewer and that proponents had touted the treaty before it had even been finalized, casting its ratification as a moral imperative. To these arguments he added his dismay that his rival for the presidency, Oscar Arias, refused to engage in debate about CAFTA during the election (2006a).

With respect to the role that the United States had played in Costa Rican politics, he wrote, "As voting day approached, the White House even went so far as to interfere in our internal affairs, weighing in with statements that echoed false threats that the 'yes' side had been spreading" (2007c ¶9). The United States was able to have such influence because, according to the U.S. Department of State (2008), the United States accounts for half of Costa Rica's exports, imports, and tourism, and two-thirds of its foreign investment. The *New York Times* quoted Solís as saying, "I never imagined CAFTA was going to be so one sided. The law of the jungle benefits the big beast. We are a very small beast" (McKinley 2005, ¶18). Or, as philosopher Allen Buchanan (2000) argues, because societies are neither economically self-sufficient nor distributionally autonomous, trade negotiations that "occur within the parameters of the global basic structure... will be shaped by whatever inequities characterize the global basic structure" (2000, 706-7).

In another piece appearing in *La Nación*, Solís (2007b) buttresses his political critique with empirical data drawn from an evaluation of the agreement among the United States, Canada, and Mexico, the North American Free Trade Agreement (NAFTA). He draws attention to the fact that after NAFTA's implementation, Mexico slipped 26 places in its ranking of worldwide competitiveness, its unemployment grew, its growth rate worsened, out-migration doubled, and the agricultural sector withered. Solís is particularly interested in the repercussions of NAFTA for two reasons: (1) CAFTA is modeled after NAFTA; and (2) since NAFTA was implemented in the 90s, it is possible to examine medium-term consequences of just such a free trade agreement. Solís's focus on the repercussions of NAFTA broadens focus from Costa Rica to the global free trade practices that endanger human rights.

TRADE AND THE EROSION OF HUMAN RIGHTS

There is no questioning trade's consequences for economic rights, including the right to fair compensation, the right to an adequate standard of living, and the right to food security (Morrissey 2006). As a specific example, free trade can have particularly devastating consequences for agricultural producers and consumers in developing countries (Mayne and LeQuesne 1999). The potential

for such consequences was a rally call for CAFTA protestors in Costa Rica. The *New York Times* quoted Costa Rican small-scale farmer Emilio Rodríguez Pacheco as saying, “It’s impossible for us to be competitive with all the subsidies that the North Americans have. For the rice sector, it’s a tragedy” (McKinley 2005).

Following Solís, one can see that NAFTA has been devastating to family farmers in Mexico, where the agricultural sector has lost 1.3 million jobs since its ratification, and this loss offsets the gains made in the manufacturing sector (Audley, Papademetriou, Polaski, and Vaughan 2004). Though the entire decline in agricultural jobs cannot be attributed to NAFTA, the treaty is “the single most important factor” to explain the reduction (Audley et al. 2004, 20). With respect to wages, NAFTA has exacerbated both poverty and inequality: real wages are 40% lower today than they were in 1980 (Brown 2004) in spite of an increase in productivity. The percentage of Mexicans living in poverty is 31%, which is greater than the percentage of Mexicans living in poverty in the late 1970s (Audley et al. 2004). NAFTA has also contributed to wage inequality, reversing the trend that had begun prior to its implementation: the top 10% of households increased their share of the national income to the detriment of the bottom 90% (Audley et al. 2004) while wage differentials between high-skilled and low-skilled workers have increased (Villarreal and Cid 2008).

In developing countries, family farmers must slash their prices below the cost of production in order to compete because subsidies in the United States enable agribusinesses there to export grain at 60% of its production cost (Oxfam 2003a). Since United States’ exporters control 70% of the world market in corn, they play an enormous role in determining world prices (Oxfam 2003b). Small- and medium-scale farmers in Mexico must set their prices below costs in order to sell their crops. Food insecurity becomes pronounced as families farming in developing countries sell increasing shares of their crops, including those that were once used for family consumption (Audley et al. 2004). Even though Mexico is importing cheap corn, this savings is not passed on to consumers (Oxfam 2003b). Because of agribusiness vertical and horizontal integration—consolidating sales of a good across markets and integrating control of the production process from raw materials to finished products—corporations can maximize profits that do not spill over into reduced consumer prices.

While the trade imbalance in goods is obvious, it is more difficult to measure what Abrahamson (2007) calls a “democratic deficit,” which is the exclusion of citizens from determining the terms of the treaty. Throughout the negotiations of free trade treaties and in the negotiations of the World Trade Organization, there are often scant opportunities for civic and political participation. Costa Rican negotiations of CAFTA were shrouded in secrecy and excluded from political debate, two objections that Solís (2007a) has raised. While constituents find themselves unable to help define the terms of trade through civic and political participation, transnational corporations amass greater influence in trade negotiations (Karliner and Aparicio 2003).

The shift of power to transnational corporations erodes citizens' political rights: “A growing share of far-reaching decisions is made at a great distance from the affected people, without them having much of a say, either directly through international institutions or indirectly through their national government” (Demmers, Jilberto, and Hogenboom 2004, 29). In the context of free trade, states have exchanged the role of active policymaker for the role of passive administrator, which takes power away from citizens to define the political agenda on a local level (Evans 1999). Therefore, citizens of developing countries are forced to adapt to decrees from afar as national governments in developed countries use their power to protect and promote the interests of domestically-based transnational corporations seeking to expand abroad (Sethi 2003).

In addition to the democratic deficit, free trade agreements like CAFTA can erode states' sovereignty as supranational institutions are given the power to override a nation's laws (Gonzalez 2004). Solís (2007a) sardonically notes that while political conservatives in the United States claim free trade engenders democracy (Roberts and Markheim 2007), CAFTA could impose laws requiring Costa Rica to rewrite its constitution. According to Gonzalez, “CAFTA will prohibit states from determining and implementing economic and social policies which their branches of government believe are most suitable to their developmental needs, thus forcing them to adhere to a ‘one size fits all’ liberalizing recipe that does not account for the unique particularities of a given country” (2004 ¶16).

ACHIEVING FAIR TRADE THROUGH CIVIL AND POLITICAL RIGHTS

Consulting citizens is a key component in the creation of fair trade agreements. As Sweeney (1998) describes, “The drive to forge the global market was led primarily from the suites... the drive to make this economy work for people... is being driven from the streets” (47). Citizen consultation confers legitimacy since meaningful civil society involvement can educate the public, ensure that decisions are made in the public interest, and augment public support for institutions and agreements (Williams 1999). To ensure citizen involvement actually informs trade agreements, it must be allowed to contribute to all stages of the policy-making process. Spalding (2007) notes that the mere insertion of labor or environmental clauses by policymakers to an existing agreement like CAFTA would not transform the treaty into a vehicle for promoting human rights. Rather, trade agreements must be crafted with citizen input around fundamental principles which could account for the precarious economic condition of small-scale farmers, protect a state’s autonomy to provide for social welfare, and prevent a blanket “one-size-fits-all” policy without respect for particular national needs.

This reliance on civil society participation obviously has its limitations, for civil society is not necessarily representative of all citizens’ interests (only those of the best organized). Civil society also brings with it a continuation of asymmetrical power arrangements. However, in spite of these limitations, including civil society in the formation of trade agreements holds four central strengths. First, civil society is unencumbered by responsibilities of government (Prevost 2005), yet still able to politicize trade agreements and subject them to public scrutiny—unlike when CAFTA was first negotiated and all participants were required during the first round to sign a pledge of secrecy (Ricker and Stansbury 2006). Second, it provides space for the equal opportunity for voice among all political parties. In contrast, during CAFTA negotiations, the Costa Rican dominant political party monopolized the discourse. Third, increased citizen participation might pressure national leaders to present their stances on trade agreements much as they do on any other domestic issue, such as taxation. When Solís ran for president he was unable to force the sitting president, Arias, to debate

CAFTA (Solís 2007b). Fourth, the decision of whether to ratify or to reject a treaty would be left in the hands of voters.

Although Costa Ricans did eventually vote for CAFTA, the process lacked the sustained input of civil society and left Costa Rican political elites and the United States wielding great influence over the outcome.

IMPLICATIONS FOR PRACTICE

Social workers have a stake in advocating for fair free trade agreements. The National Association of Social Work's *Code of Ethics* preamble says clearly that social workers should meet "the basic human needs of *all* people" (emphasis added, Preamble ¶1). Thus, social workers' commitments extend beyond the borders of the United States. Second, contesting free trade agreements as they are currently written and enacted is an obligation according to the ethical principle of challenging social injustice. Social workers are bound to aid "vulnerable and oppressed individuals and groups of people," and their social change efforts should extend to issues of poverty and unemployment among others. Section 6 of the *Code of Ethics* outlines several specific commitments, such as the promotion of welfare at all systemic levels, the facilitation of informed social and political participation, and the shaping of just social and political institutions.

Social work professionals can contribute to robust civil society participation and the politicization of trade policy-making. Both theory and data indicate that the streams by which goods flow also facilitate the movement of people and that international migration is interwoven with the global economy (Massey, Arango, Hugo, Kouaouci, Pellegrino, and Taylor 1993). NAFTA has shown that migration has risen with accelerated economic integration (Oxfam 2003a), bringing some social workers into contact with families and individuals uprooted by this trade agreement.

Social workers can foster immigrants' capacities to continue to engage in social movements, such as the one that emerged in Costa Rica. According to the United States Human Rights Network, social movements should aim to protect human rights, and they should be led by the people most directly offended by violations (Neubeck 2006). Social workers' roles as defenders of human rights, advocates for social justice, and capacity builders recognize and fulfill both

of these tenets. Trade agreements are politically constructed, and, thus, they are amenable to influence by social movements. Social workers can advocate for fair trade by working together with affected people to strengthen their capacity to participate in trade policy-making in order to create fair trade agreements.

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SELLING CHICAGO AS A GLOBAL CITY: REDEVELOPMENT AND ETHNIC NEIGHBORHOODS

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Abstract

Chicago is in the dynamic process of redefining itself in the national and international urban hierarchy within the new era of globalization. Globalization in Chicago can be understood in multiple contexts. The following analysis reduces globalization to tangible processes of community revitalization in ethnic neighborhoods in Chicago. The Pilsen neighborhood will be used as a case example of how the city's political economy and the rise of tourism are shaping the fate of its residents.

Chicago's Pilsen neighborhood is located on the city's southwest side. Founded in 1878 by a settlement of Czech families who named their neighborhood after Pizen, a city in what is now the Czech Republic, Pilsen became home to a European immigrant community comprised of Poles, Croatians, Lithuanians, and Italians by the 1930s (Gramennos, Wilson and Wouters 2004). These ethnic groups came to work in the steel mills, meatpacking plants, and stockyards located in and around the neighborhood during Chicago's industrial development. Pilsen emerged as a distinctly Czech area after Mayor John Wentworth instigated the "Battle of the Sands" campaign, which was launched on April 20, 1857 (Kearney 2008). The "Sands" was a growing Bohemian Czech neighborhood on Chicago's Near North Side, and in order to contain the growth of this neighborhood, the mayor used the Chicago Police Department to displace Czech families. The police descended upon the neighborhood, "burning houses and beating and sometimes killing residents. The Bohemian population fled the neighborhood and settled south... in a neglected area of the city they named Little Pilsen" (Kearney 2008, 7). Spared by the Chicago Fire of 1871, Pilsen subsequently received another massive influx of residents, this time, homeless families who had lost everything in the fire. Overcrowding quickly became an issue. It is estimated that in 1901, 7,000 people resided within just nine city blocks (Kearney 2008). As a consequence, many of the Protestant Churches in Chicago started Settlement Houses—such as Erie Neighborhood House, Howell Neighborhood House (now Casa Azatlan), and Gads Hill Center—to address social problems in the neighborhood.

Although Mexican workers employed by the railroad or by International Harvester began moving into Pilsen as early as the 1920s, it was not until the 1960s that the Mexican population Pilsen is now known for started to grow in great numbers. Between 1960 and 1980, the Mexican population of Pilsen and the adjacent neighborhood, known as Little Village, grew from 7,000 to more than 83,000 (Wight 2006). Several factors contributed to this increase. Richard J. Daley became Chicago's Mayor in 1955 and collaborated with the University of Illinois at Chicago to build the West Loop campus in an area largely inhabited by Mexican families, leading them to migrate further south and west.

Second, President Lyndon B. Johnson signed the Immigration and Nationality Act of 1965 (the Hart-Cellar Act), which led to the abolishment of nation-origin quotas. During the 1970s and 1980s, Mexico experienced a demographic explosion while simultaneously struggling with a drop in oil prices, high inflation, and mounting foreign debt. These “push” and “pull” factors of migration contributed to 18 million immigrants from Mexico entering the United States legally between 1965 and 1995, triple the amount admitted during the previous thirty years (Center for Immigration Studies 1995), and an estimated 485,000 immigrants from Mexico entering the United States illegally each year (Passel 2005).

While immigrant neighborhoods and ethnic enclaves have historically been viewed as overcrowded, decaying sites of contagious social pathology, often tagged as “ghettos,” “slums,” or “barrios” (Charles 2000), Pilsen is currently a target for development. Its low land-values, proximity to downtown, and connections to public transportation have made it attractive to developers. Perhaps more importantly, Pilsen has an identity that can be packaged and sold. It contains a colorful mixture of multi-family apartments, small cottages, flats, and commercial buildings, and many of its buildings have architectural adornments—such as cornices, pediments, and mansard roofs—that suggest the “old country.” There are several historic churches (St. Paul and St. Adelbert), and numerous mosaics and murals, in addition to Mexican bakeries, Mexican restaurants, and Mexican grocery stores, all of which are named after specific cities in Mexico. In recognition of the rich cultural history of the neighborhood, Pilsen was named a National Register Historic District on February 1, 2006. The National Museum of Mexican Art, located at the intersection of W. 19th Street and Wolcott, is the largest Latino arts institution in the country and the only accredited Latino museum according to the American Association of Museums. All of these cultural expressions and amenities create the sense of being in an authentic, “old world” neighborhood.

Three key figures have factored into an emerging struggle over the future of Pilsen’s potential development and role within the city. First, there are local developers who seek to make Pilsen an attractive destination for outside consumers. Second, there is the City of Chicago Office of Tourism, which aims to advertise Pilsen as the Mexican gem of Chicago.

Finally, there are the Pilsen residents themselves, who generally want to preserve the current immigrant character of the neighborhood and the availability of affordable housing.

Perhaps nothing explains the lure of Pilsen as a site of development more than the following: there are market initiatives now employed to “renew” such neighborhoods and Pilsen itself can be packaged and sold as a site of culture. The market initiatives include local tax subsidies, the designation of business improvement districts (BIDs), and tax increment financing (TIF). Although the stated purpose of these strategies is to resuscitate declining communities, they have become catalysts for gentrification, which often forces out current residents when a neighborhood is redeveloped. According to Arlene Davila (2004), an anthropologist at New York University, “Gentrification... is also characterized by the re-signification of neighborhoods to be rendered attractive and marketable to new constituencies” (3). This process explains how Pilsen’s ethnic attributes became a significant component of the so-called “community revitalization.” Neighborhood reinvestment and redefinition is generally crafted to attract a new class of urban residents, a class “significantly interested in consuming cultural offerings as part of their quest for authentic experience” (Lloyd 2004, 346) and “experiential intensity” (Peck 2005). Wicker Park, Bucktown, and Ukrainian Village serve as examples of such development strategies in Chicago. These rapidly changing neighborhoods even attracted the attention of the *Chicago Tribune*, which launched an “unprecedented investigation” in January 2008 on community development, or rather “how aldermen ignore city planners and frustrated residents as they frequently permit new and bigger buildings that leave neighbors in their shadows” (Becker, Little, and Mihalopoulos 2008).

In the following examination of Pilsen, two different gentrification approaches will be addressed. First, the commodification of Pilsen’s local culture will be shown to be a vehicle of gentrification. Second, urban planning and development initiatives like zoning and tax increment financing (TIF) will be contextualized within the revitalization dynamics of the community. The analysis will conclude by reflecting on the definition of community within the globalized market.

CHICAGO'S REDEFINITION IN THE POST-INDUSTRIAL ERA

Chicago was once an iconic powerhouse of steel and stockyards, a Fordist city characterized by mass production and mass consumption. Industrial decline significantly impacted Chicago's economy beginning in the late 1960s. Between 1967 and 1982, 250,000 manufacturing jobs, 46% of the city's total, were lost and one million White workers fled the city (Abu-Lughod 1999). Forced to respond to the collapsing economic core, city leaders focused investments on the beautification of downtown in order to promote the city's attractiveness and on development strategies to expand the business service sector and the tourism industry. Mayor Richard M. Daley's investments in Navy Pier, McCormick Place, Millennium Park, the United Center, and Soldier Field are all concrete symbols of this development model.

In addition to these development strategies, consumerism and the promotion of culture have also played important roles. Chicago has been effectively reoriented to become an expansive site for tourism and consumerism. This is most evident in the development of neighborhoods like Wicker Park and Bucktown. Their tree-lined streets were adapted to a new retail constellation of cafes, used bookstores and boutiques, all introduced as tools for attracting a "creative class," an upwardly mobile demographic associated with consumerism and fluid social networks (Peck 2005).

COMMODIFICATION OF CULTURE

The creation of retail-oriented neighborhoods is paralleled in ethnic neighborhoods, but with a distinct difference. Ethnic neighborhoods are redeveloped in and around cultural symbols. This money comes from City Council approved ordinances provided to fund exterior improvement of homes and businesses in order promote development. With City money, external developers encourage local businesses to announce and display the culture of neighborhood residents (Betancur 2005). This is done to draw in outsiders who come as both spectators and consumers. Amenities, the physical or intangible benefits that render property more attractive, are the critical unit of analysis within ethnic neighborhood redevelopment. For example, Chicago's

Greektown features Ionic columns on Halsted Street to demarcate the entrance and exit points of the neighborhood, along with a liberal amount of Greek flags, Greek restaurants, Hellenic patterns laid into the cement on the sidewalk, and pseudo-ethnic stores, like Athenian Candle Company. Greektown demonstrates how “ethnic packaging is now working like art did—a way to anchor bohemian culture for an outside community looking for something unlike the suburbs” (Hackworth 2005, 220).

This marketing of culture is a hallmark of neoliberal economic development of cities, which emphasizes the creation of a good business climate and conduits for tourism. Chicago’s own Office of Tourism (2008) states on its website, “Chicago’s downtown area and lakefront can keep you happily occupied for days, but you haven’t really seen Chicago until you’ve visited some of our distinct and culturally diverse neighborhoods. They’re fun and fascinating—and they’re just minutes away from downtown on public transportation. There are 26 ethnic groups in the Chicago area with at least 25,000 members each. We’ve counted 132 languages that are spoken in Chicago, but almost everyone speaks English, as well.” Over the past decade, the Chicago Office of Tourism has made several attempts to support the development of Pilsen by targeting shops and stores for low-interest “rehabilitation” loans (Curran and Hague 2006). These investment sites are encouraged to display the ethnic identity of the neighborhood, using culturally distinctive amenities in order to attract outside consumers. The end result of such directed development efforts is the promotion of Chicago’s “culturally diverse neighborhoods” and the city’s overall identity as a multi-ethnic destination.

Terry Clark, a University of Chicago sociologist, explains the important role played by the amenities designed to mark and distinguish neighborhoods in a multi-ethnic city. Manufactured by the city, they are, says Clark (2002), a globalization power tool that produces what he calls “taste cultures,” which are consumer patterns reflective of an individual’s demands for public goods (e.g., landscaping, transportation, art, etc.) and private goods (e.g., jobs, property rights, etc.). According to this framework, advertising the Mexican-ness of Pilsen is meant to create a commercial theme for the district, a theme designed to appeal to the various taste cultures of a new consumer class. Mexican parades and festivals, restaurants, shops, and murals are expressions of the

cultural identity of the neighborhood's current residents. However, the Chicago's Office of Tourism, the Pilsen Together Chamber of Commerce, and the Pilsen-based 18th Street Development Corporation have all appropriated these cultural symbols into a redevelopment scheme designed to attract middle-class consumers to partake in the "local culture." Specifically, there are policies in place to facilitate the development of Pilsen into an ethnic tourist neighborhood and to contribute to Chicago's global city campaign.

REDEVELOPMENT TOOLS

In 1998, Pilsen was declared an industrial Tax Increment Financing Zone (TIF). A neighborhood becomes eligible for TIF if it is determined to be a "blighted" area according to an extensive survey performed by a private consultant hired by the City. The Mayor and City Council make final decisions on TIF proposals and redevelopment plans drafted by the Department of Planning and Development and the Community Development Commission. An area is designated as an industrial TIF zone with the specific goals of strengthening industrial businesses and protecting employees in the neighborhood. In 2003, Pilsen Alderman Danny Solis told the *Chicago Sun-Times*, "My vision for Pilsen is to become the best Mexican-American community in the Midwest, where you can come, taste the food and experience the culture" (Webber 2003, 49). In November 2005, however, Alderman Solis proposed the construction of a 391-unit condominium development and several commercial sites at the intersection of 18th Street and Peoria, an area within the TIF Zone (Curran and Hague 2006). While many residents and community activists questioned how dense residential development would promote industry, it was sure to increase property taxes, shut down local businesses, and potentially displace residents. While it is questionable whether or not these results were Solis' motivation for permitting the condominium development, it is clear that he favors the use of culture as a medium of entrepreneurship. The taxes generated from this condominium site would be added to Pilsen TIF revenues, the majority of which are dormant and controlled by the aldermen and Mayor Daley. In addition to the proposals for real estate development, Alderman Solis has also encouraged retail development in similarly protected industrial zones. The official 2005 City Hall TIF Report lists 143

tax increment-funding districts in Chicago, as well as nineteen vendors that received TIF funding, many of whom were welcomed into the “protected” industrial zones of Pilsen and almost all of whom were discovered to have contributed money to the campaigns of either Mayor Daley or Alderman Solis (Joravsky 2006).

This Pilsen zoning dispute illustrates the rising tension between neighborhood residents, the City, and outside developers. Zoning was originally a tool used to classify and manage building density and land use, but in Chicago, the aldermen are primarily responsible for assigning zones and making zoning changes, and political interests heavily influence their decisions. According to the building inventory conducted by DePaul University’s Geography Department, Pilsen is over-zoned, which means that the zoning designation for the neighborhood permits far more development than can be accommodated. According to the DePaul geographers, “This mismatch between zoning and actual use means that developers can buy a single family home, demolish it, and rebuild three to four story rentals or condominiums in its place, all without any community or city zoning board approval” (Curran and Hague 2006, 9). When multiple housing units or significant portions of neighborhoods are redeveloped into rentals or condominiums there is a significant impact on property values. As a result of over-zoning, public and subsidized housing has diminished, homeowner taxes have increased up to 150% within the past five years (Pilsen Alliance 2009), and local businesses have shut down. Solis’ efforts to develop Pilsen as a Mexican neighborhood are having the opposite effect. Pilsen’s residents are slowly being displaced and living cultural expressions are being replaced by ornamental expressions fit for consumption. In 2005, these changes put Pilsen on the “endangered site” list by Preservation Chicago (Curran and Hague 2006).

GRASSROOTS RESISTANCE TO DEVELOPMENT

The trend toward gentrification in Pilsen has been met by various grassroots resistance initiatives. For example, Juan Valasquez and Carlos Arango helped organize the Protect Pilsen Coalition (PPC), which seeks to educate residents on the potential consequences of consumer-oriented development. “What I tell residents and neighbors,” says Valasquez, “is straightforward. The chamber

would make Pilsen a community of fake Mexican icons and people. They want sombrero-clad, smiling people who happily munch on tortillas with glittery restaurants and shops selling their products” (Grammenos et al. 2004, 1186). Valasquez and Arango have organized demonstrations at construction sites and used community symbols, such as the Mexican murals, as political icons of empowerment. These murals were created during the Chicano movement of the 1960s and represent different historical events of liberation and resistance. On 1831 South Racine Street there is a mural of Che Guevara, Pancho Villa, Emiliano Zapata, Frida Kahlo, Cesar Chavez, Benito Juarez, and Rudy Lozano. A mural on 1645 West 18th Place reflects similar people, while another close by reads “Viva Mexico.” As a result of their organizing efforts, residents began confronting developers and staging sit-ins. Residents also began approaching neighborhood visitors, mostly those from the city’s own “creative class,” and confrontationally asking their reason for coming into the neighborhood (Grammenos et al. 2004).

Pilsen Neighbors (PN), Pilsen Alliance (PA), and the Neighborhood Resurrection Project (NRP) are other community-based groups working to maintain affordable housing for working-class families and to develop the neighborhood according to the parameters defined by the residents. Pilsen Alliance teamed up with DePaul University’s Geography Department to pitch the Pilsen Is Not for Sale (PN4S) campaign (Grammenos et al. 2004). The Geography Department implemented the “The Building Inventory Project” to produce a comprehensive database of building and property conditions as well as “publicly available information on building permits, property taxes, assessed values, property sales, and ownership” (Curran and Hague 2006). This study produced startling statistics: between 1990 and 2000, house prices rose an average of 68% (Curran and Hague 2006) and, between 1995 and 2002, the average rent increased 44% (Betancur 2003). The information produced by DePaul was integrated into the PN4S campaign to generate several ballot initiatives. In March 2004, Pilsen Alliance organized community members to vote on whether or not aldermen should hold open public meetings on zoning changes in Pilsen (Curran and Hague 2006). The vote passed with 95% voter approval.

As a result of the vote, concerned community members established a nineteen-member Pilsen Community Zoning Board

to further defend the community against private developers and the City. This collaborative effort produced two significant victories in the fight to protect Pilsen from radical change. Pilsen residents, in collaboration with Pilsen Alliance, used public referendums in 2005 and 2006 to bring to awareness to Alderman Solis and Mayor Daley's responsibility for zoning miscalculations and the increasing number of loft conversions in their neighborhood. As a result, Alderman Solis agreed to work with a zoning advisory board composed of Pilsen residents and he publicly announced that he would not down-zone Pilsen.

Despite these grassroots efforts, Pilsen property taxes are rising and over 1200 homes were foreclosed in 2006, a trend initiated by gentrification and aggravated by the most recent subprime mortgage crisis (Ahmed and Little 2009). A disproportionate number of foreclosures are concentrated in immigrant neighborhoods due to predatory loaning in the banking industry. Unfortunately this trend has spread throughout much of the southwest part of Chicago. Many locally owned Latino businesses have shut down due to increased rent and families have been displaced and forced to move into other neighborhoods where they do not have social supports or culturally appropriate public services (Curran and Hague 2006). A recent article in Chicago's Latino periodical, *La Raza*, reported the findings of the United Merchants of Pilsen: 70 Latino businesses left Pilsen within the past year (Zavala 2008). Pilsen's battle with gentrification illustrates the dynamics of revitalization in the neoliberal economy, particularly where ethnicity can be packaged and sold for the sake of visitors. "Building cities for the interests of 'visitors' rather than the concerns of 'residents' translates into a skewed public agenda, declining quality of municipal services for residents, and increasing social division and conflict" (Gotham 2001, 15).

CONCLUSION

Are all development efforts malevolent? Gentrified neighborhoods in Chicago enjoy enhanced municipal services, new businesses, safer streets, and greater political clout. According to Milton Friedman, cultural exploitation for economic gain allows people to become "market actors." Even if one does not accept Friedman's assumptions, according to Duany (2001), urban

gentrification is a “natural” process that cannot be induced or controlled. Shrinking federal resources and an increasing emphasis on market-centered development has perhaps left the City with no alternative than a development plan that caters to neoliberal consumerism. But the effects cannot be ignored. Gentrification in ethnic neighborhoods risks alienating people from their own homes and their own communities.

Chicago Office of Tourism activities, tax increment financing, and zoning practices are creating tourist attractions out of ethnic neighborhoods. Pilsen is a poignant example of how the social, political, and cultural dimensions of a neighborhood are impacted as a city competes in the global economy. Chicago’s efforts to promote itself as a multi-ethnic city are evident all the way down to the sewage drains with Aztec motifs that were installed in Pilsen. In 2001, Christopher Dreher gave post-industrial cities the ultimatum, “Be creative—or die” (Peck 2005, 1); a warning that, unfortunately, is reverberating through Chicago as: go the way of Greektown, or perish.

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MOVING FROM RETRIBUTIVE TO RESTORATIVE JUSTICE IN COMMUNITY SCHOOLS

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Abstract

The use of suspensions as a method of punishment in schools has increased over the past decade. This disciplinary practice impacts minority students at a disproportionate rate, and has serious implications for students, many of whom discontinue their education because of expulsion or dropping out of the school system. Consequently, many schools are developing innovative and non-exclusionary disciplinary practices. Rather than having students merely fulfill a punishment, methods of restorative justice require individuals to repair the harm done during a behavioral infraction. This method holds promise for curtailing the adverse affects of suspension, particularly in the context of full-service community schools. This article addresses the use of restorative justice in such schools and presents one Chicago community school's use of restorative justice.

INTRODUCTION

Out-of-school suspension is one of the most common disciplinary methods used by contemporary K-12 schools. School administrators rely on suspensions to maintain order and discourage students from breaking school rules. However, this form of discipline has caused considerable controversy, primarily because suspended students lose instruction time while being punished and suspensions have been shown to lead to a greater likelihood of subsequent suspensions, grade retention, expulsion, and incarceration (Skiba and Peterson 1999). Furthermore, while the rationale given for suspensions is that suspended students pose a risk to other students, most suspensions are not given for acts like bringing a weapon to school, but for minor infractions like insubordination and tardiness (Skiba and Peterson 1999; Mendez and Knoff 2003).

In addition to using suspensions for such minor infractions, studies of suspension practices expose racial dynamics and cultural misunderstandings which inform this disciplinary trend. African American students receive significantly more suspensions than their White peers (Skiba, Michael, Nardo and Peterson 2002; Mendez and Knoff 2003). What begins with the inadequate nature of school services for minority students, including high student-teacher ratios and poor course relevance, becomes, in the end, further marginalization within, or removal from, the public school system (Krezmie, Leone, and Achilles 2006; Skiba et al. 2002).

Students' experience of marginalization in schools is one reason why the community school model of public education has proliferated in cities such as Chicago, Baltimore, Cincinnati and Philadelphia. The community school model dictates that schools become the centers of their neighborhoods by providing a variety of services outside the classroom. Full-service community schools, which partner with local agencies, ensure that neighborhood families have access to health care, employment services, community education, and extracurricular activities. This model represents a promising education reform because it addresses the widening achievement gap between minority and Caucasian students through resource allocation to assist families facing

external barriers (e.g., health care) that can hamper a child's academic achievement. In addition to facilitating connections to community agencies, full-service community schools provide additional opportunities for youth development and mentoring as well as opportunities for continued parent education (Dryfoos 2002). One way for full-service community schools to continue addressing educational inequities many minority students face is by minimizing the disciplinary role of suspensions.

Disciplinary practices send a message to students and their families regarding what the school accepts as normative behavior and full-service community schools must ensure their disciplinary procedures are consonant with their role as a community school. Restorative justice represents a promising framework for discipline within the community school; rather than isolating students, it reinforces connections between their actions and the community. When community schools honor the importance of connections within a given community by using methods of restorative justice, such as mediation and conflict resolution, they promote the development of students as productive citizens. This paper presents an overview of current disciplinary practices in schools, the implications of these practices, and ways in which restorative justice represents a beneficial alternative to suspensions. It illustrates these issues through an analysis of one Chicago community school that already utilizes methods of restorative justice. It draws on the example of one K-8 community school, referred to as Lakeside for this paper, which has incorporated restorative justice practices in order to minimize its use of suspension.

CURRENT PRACTICES

Out-of-school suspension is the hallmark of zero-tolerance policies (Skiba, Peterson, and Williams 1997), which aim to provide a straightforward punishment for violence in school buildings (Skiba and Peterson 1999). In 1994, the U.S. Congress passed the Gun-Free-Schools Act, requiring all states receiving federal funding for their school system to expel any student caught bringing a firearm to school. Since the legislation's implementation, schools have expanded their use of a "zero tolerance" policy to punish a wide range of behavioral infractions. Several studies demonstrate that most suspensions have resulted not from violent acts, but

from insubordination to authority, tardiness, and disruptive behavior (Mendez and Knoff 2003; Skiba et al. 1997).

African Americans are disproportionately represented in suspension rates and scholars hypothesize that this disproportionate representation stems from complex factors that lead public schools in low-income neighborhoods to have high student to teacher ratios, poor course relevance, and poor leadership (Krezmien, Leone, and Achilles 2006). Mendez and Knoff (2003) conducted a comprehensive quantitative analysis of suspension rates across elementary, middle and high schools in a large central Florida school district and found that 26% of Black males experienced at least one suspension (compared to 15% of Latino males and 12% of White males). The study also found that rates increased from elementary school to middle school and decreased after middle school. The authors hypothesize that the decrease in high school numbers are explained by students dropping out of the school system completely.

The long-term ramifications of suspensions are serious for students. Because suspensions remove students from the school building, this form of punishment may lead to students feeling so disconnected from school that they exhibit chronic truancy (Skiba and Peterson 1999; Atkins, McKay, Frazier, Jakobsons, Arvantis, Cunningham, Brown, and Lambrecht 2002). Christle, Nelson, and Jolivette (2004) studied suspension trends in 160 Kentucky middle schools to understand the school characteristics related to suspension rates. They calculated Pearson correlation coefficients between suspension and a variety of variables and found a statistically significant positive correlation between suspension and future disciplinary action, such as suspension or expulsion (.853), grade retention (.388), dropout (.280) and law violations (.388). These data suggest that exclusionary punishments make it appear as though schools are addressing problem behaviors when often they are merely shifting the problem out of the school and contributing to long term school disengagement.

Noguera (2003) argues that zero tolerance policies reassert societal power structures as schools implicitly and explicitly socialize students. Continually suspended students learn that they belong outside school. Suspensions thus begin a cycle of student disengagement. These exclusionary practices isolate the individuals, mark them as particularly problematic, and fail to provide any way to alter their status. Noguera claims that by not

providing guidance for students on how they can improve their behavior, schools contribute to young people's negative self-understanding: seeing their roles in school as troublemakers and themselves in society as failures. Noguera therefore recommends that educators create caring environments in which teachers model positive behavior and maintain high expectations for all students rather than removing them from the domain of education.

RESTORATIVE JUSTICE

When Christle, Nelson, and Jolviette (2004) sought to find the differences between schools with high and low suspension rates, they found that schools with low rates used proactive rather than reactive disciplinary measures, maintained high expectations for students, and constantly challenged students to think critically. They showed that school climate and discipline are intertwined, and that beliefs regarding students' capabilities are integral to sustaining successful disciplinary practices. They conclude that discipline must be conceptualized as part of the entire school environment in order to foster positive behavior changes.

The shift from retributive to restorative methods came to education from the field of criminology (Hopkins 2002) as schools found that they too could utilize mediation and conflict resolution. According to Hopkins (2002), implementing restorative justice requires a shift in the interventions that schools use to repair harm associated with behavioral infractions and in the underlying philosophies that guide all decision making in the school community. When adhering to the philosophy of restorative justice, schools use conflict resolution strategies and open dialogue. This process allows for the restoration of relationships and the overall well-being of a community so that conflicts do not recur. Generally, when students are subjected to punitive punishments, they see themselves as victims, which may cause them to avoid taking full responsibility for their actions (Costello, Wachtel, and Wachtel 2009). However, the restorative process engages students around the ramifications of their actions in a meaningful way so that they take ownership over their actions and learn from poor decisions.

Proactive approaches like conflict resolution and forming circles, a process in which all stakeholders in a behavioral infraction sit in a circle and discuss what happened, how it affected

others, and how to move forward, allow students to be involved in the disciplinary process rather than to be passive recipients of punishments. These practices hold students accountable for their actions while developing the skills necessary to work through difficult issues and find fair solutions. Ultimately, these practices encourage students to develop empathic listening, non-judgmental attitudes and perspective-taking, all crucial social skills that aid in the maintenance of healthy relationships.

According to Karp and Breslin (2001), schools do not incorporate restorative justice because its concept is abstract, its practices time consuming, and its philosophy a large departure from traditional disciplinary methods. Examining how several school districts around the country have incorporated restorative justice into their school's disciplinary procedures, they found that restorative justice methods did not wholly displace traditional methods, but instead provided alternative disciplinary options for minor infractions that did not compromise the school community's safety. They found that although each school's application was unique, all schools adopting the methods relied on principles of critical thinking, reflection, and discussion, transforming rule violations into opportunities for students to learn. The authors found that schools viewed discipline as a cooperative process that ideally encourages individuals to connect through discussions, each stakeholder sharing his or her perspective on the situation. In other words, restorative practices allow students to understand better how behavior impacts people's feelings and, in turn, how to participate in developing mutually agreed upon steps forward (Hopkins 2002). By giving students the responsibility to repair harm after a negative behavioral incident, restorative justice in the school system encourages students to have a greater sense of ownership over community dynamics. Restorative justice thus builds community cohesion by acknowledging students and supporting the idea that they have responsibilities and capacities for full participation.

The principles of restorative justice fit into the community school model because they mobilize communities to engage in disciplinary practices together. Furthermore, they encourage critical thinking and self-determination among students, which are skills they must develop in order to be successful after graduation from high school. Community schools hold great promise to teach and practice restorative justice while supporting widespread

dissemination of restorative justice principles. Because community schools allow all community members to come into the building and engage in different activities, a variety of community members can learn these practices and apply them in their greater community.

To incorporate restorative justice into a school community effectively, encouraging school-wide acceptance and support is crucial. Hopkins (2004) argues that in order for the practices to become internalized in a school community, all faculty members must be familiar with restorative practices. To embed the concepts of restorative justice, it is necessary to provide faculty members with professional development sessions and opportunities for practical applications in their classrooms. Providing ongoing support and creating a board of interested faculty committed to the mission of restorative practices are also necessary.

When training students in restorative practices, it is important to account for the developmental level of the students. Peer mediation is one method that trains students to serve as neutral parties when a conflict arises between two or more students. Another method is providing school-wide conflict resolution classes that teach compromise and cooperation skills necessary for non-violent interactions.

Creating a peer jury is another way to incorporate restorative justice into a school community. Nearly 50 high schools and a few middle schools in Chicago have adopted this particular model as an alternative to punitive measures. While published data on the effectiveness of the peer jury in middle schools are minimal, high schools using peer juries report decreased suspension rates, fewer in-school fights and higher attendance rates (Office of Illinois Attorney General, 2008). Additionally, the peer jury method has been written into the Chicago Public Schools (CPS) disciplinary code as a referral option, indicating CPS supports the initiative as a viable method of discipline.

THE EXAMPLE OF LAKESIDE

Lakeside School is a K-8 full-service community school in the Chicago Public School district. It has a population of 500 students, all African American, and nearly all receiving a free or reduced-price lunch. The Illinois Youth Survey given to Lakeside's 6th and 8th graders in March 2008 revealed results that led to

the change in the school's disciplinary procedures. The report indicated that 30% of 6th graders and 45% of 8th graders did not feel safe in their neighborhood. The report also indicated:

- 65% of 6th graders and 64% of 8th graders believe that other students' bad behavior gets in the way of their learning;
- 61% of 6th graders and 62% of 8th graders were involved in a physical fight;
- 46% of 6th graders and 27% of 8th graders were bullied by someone calling them a name;
- 47% of 6th graders and 17% of 8th graders were threatened by another student;
- 33% of 6th graders and 22% of 8th graders believe they aren't treated with as much respect as their peers; and
- 18% of 6th graders and 24% of 8th graders admitted to skipping or cutting one or more full days of school over a one month period.

These data indicate that many Lakeside students experienced relational conflict at school and either felt bullied or felt the need to bully others. These data also illustrate that the relationships students had with each other were strained.

During the 2007-2008 academic year, the school averaged between 30 and 40 suspensions per month, typically resulting from students threatening peers or teachers, displaying disrespectful behavior, or harassing peers over the Internet through email or instant messages. The school's relationships with students' families was compromised. Many parents expressed concern that the school's method of suspending students was vilifying the children.

In summer 2008, a Lakeside planning committee created a peer jury program to address its high monthly suspension rate. This new program allows selected students to collaborate with the school's disciplinary team to determine the consequences for their peers who break non-violent school rules. The program's framework is based on the Chicago Police Department's Peer Jury Court that allows youth with non-violent charges to meet with a peer jury, rather than the Juvenile Court system, to determine an appropriate and constructive sentence. Lakeside collaborates with the Chicago Police Department to support the program's implementation.

The peer jurors at Lakeside do not determine guilt or innocence. Rather, they determine appropriate steps for repairing

the harm done after a referred student acknowledges breaking a rule. A case goes to the peer jury hearing after: (1) a referred student acknowledges guilt; (2) the disciplinarian believes a hearing is appropriate; and (3) the referred student's guardian signs an agreement consenting to their child's participation in a hearing. At the hearing, jurors question the referred student, deliberate, and determine an appropriate consequence from a list of pre-determined options. The jurors call the referred student back, inform the student of the consequence, and schedule a discharge hearing within 7-14 days of the trial hearing. The referred student must complete the assigned consequence and return to the discharge hearing, where the jurors review the assignment and question the referred student about his/her experience completing the assignment. If the jurors deem the completed consequence acceptable, the student's case is discharged. If it is incomplete, the jurors send the case to the school disciplinarian for further action.

The peer jury program is a student leadership program that fosters a sense of restorative justice within the school community and political literacy in the students while minimizing the use of punishments that remove students from the school building. In this process, the jurors develop critical thinking skills by utilizing negotiation and collaboration in order to craft fair and just consequences to certain specified rule violations while referred students are encouraged to think about the consequences of their actions. The program sends a message to the community that the school trusts its students and wants to create a safe and caring school climate. Furthermore, the school invites parents of referred students to attend trials and holds activities throughout the year to demonstrate restorative justice and to provide further education about it.

This program is likely to increase the sense of fairness and justice at Lakeside and to encourage students to view their participation as integral to the school community. Furthermore, this initiative encourages a positive connection between Lakeside and the parents, as well as the school and community institutions such as the Chicago Police Department and community services sites, all of which strengthens the school's mission.

CONCLUSION

The mission of a full-service community school is to provide an institution that provides for the family as much as for the student. In addition to providing families with access to health care services, community education, and other supports, community schools focus on youth development through extracurricular activities. Exclusionary disciplinary practices that require students to stay out of the school do not fit into the framework of a full-service community school. Practices that avoid exclusion as the dominant mode of discipline fit best in the child-centered mission of community schools. Furthermore, because community schools are often located in low-income neighborhoods and frequently enroll minority students (Dryfoos 2002), it is my belief that re-evaluating disciplinary practices in these schools would provide a good opportunity to improve disproportionate rates in suspensions among minority students. Methods of restorative justice fit into the community school model because they use behavioral infractions as opportunities for students to learn from their mistakes and grow as community members. This learning opportunity allows students to cultivate important life skills, including self-awareness and empathy. Community schools provide a good context for the incorporation of restorative justice because families and other community members have the opportunity to experience restorative justice in practice.

Lakeside is just one example of how restorative justice can operate in a school. There are a variety of ways to incorporate it other than through peer jury, and scholarship on contemporary disciplinary practices must continue to address and explore non-exclusionary practices. While highlighting these practices through case studies and descriptive studies is necessary, future studies must also examine the effects of restorative justice on suspension rates, attendance rates, academic achievement, and drop out rates. Restorative justice holds great promise to impact school environments. Strengthening the research base regarding its effectiveness will help support the development and dissemination of school-based restorative justice approaches and facilitate school-based disciplinary practices that emphasize inclusion and learning.

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STRIKING A BETTER BALANCE BETWEEN CHILD SAFETY AND PARENTAL RIGHTS

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Abstract

Recent court cases have questioned whether the use of safety plans by the Illinois Department of Children and Family Services (DCFS) violates parents' rights to custody of their children. However, little attention has been paid to a key determinant that initiates safety planning—risk assessment. DCFS utilizes a model of risk assessment known to have serious accuracy flaws, which may lead to inappropriate custody interference by the state. This paper links research on risk assessment to the use of voluntary safety plans by DCFS, and considers implications for the rights of parents, children, and the state.

Child protection services are one of the most important and controversial functions of the state. State interventions in private family life can bring the safety of children and the rights of parents to care for their own into conflict. Each state's child welfare system involves both social work and legal systems. In Illinois, social workers in the Department of Children and Family Services (DCFS) implement the day-to-day child protection casework, including home visits and family assessment. Cases of abuse or neglect are referred to the courts, which oversee a child's removal, reunification or other custody arrangement. In these situations, DCFS and parents are often on opposing sides of a child welfare case; a judge hears the facts of the case and determines the appropriate custody, guardianship, and parental rights for a child.

When a child protection case becomes court-involved, three critical sets of rights must be considered: the rights of parents, the rights of children, and the rights of the state. Parents have a fundamental right to the care and custody of their children, as located in the Due Process Clause of the Fourteenth Amendment. In *Troxel v. Granville* (2000), the Supreme Court determined that a parent's care and custody of their children is, "perhaps the oldest of the fundamental liberty interests recognized by this Court." Fundamental rights are not absolute, but present a demanding "strict scrutiny" standard the state must overcome in order to intervene. In Illinois, the state is required to provide a hearing within 48 hours of taking temporary custody of a child, during which they must prove that there is a reason to believe the child is in "imminent danger" of harm, according to Illinois Compiled Statutes, Chapter 705, Section 405. Additionally, parents are entitled to "reasonable efforts" by the states to reunify before parental rights are terminated permanently. While children have the right to be cared for by their parents without third party interference, as established in *Smith v. Organization of Foster Families for Equality & Reform* (1977), they also have the right to be free from abuse and neglect by their parents (*Planned Parenthood v. Danforth* 1976). As for the state, it has a *parens patriae* interest, defined as "a profound interest in the welfare of the child, particularly his or her being sheltered from abuse" (*Tenenbaum v. Williams* 1999). In this context, two casework practices of

DCFS have come under scrutiny for their impact on parents' fundamental rights: risk assessment and voluntary safety plans.

In cases where neglect or abuse is suspected, DCFS casework protocol requires a risk assessment be conducted during the initial investigative contact with the family. The risk assessment attempts to determine the likelihood of imminent harm to the child, and, if harmed, the severity. The legal standard for child removal is "imminent danger." Social workers utilize clinical skills to assess the situation and make a determination regarding the risk of imminent harm. If a child is deemed "unsafe," removal is not the only course of action; a social worker can also develop a voluntary agreement with a caregiver to prevent the child's immediate removal. Safety plans might involve actions such as temporarily removing suspected perpetrators of abuse from the home or asking that children stay with relatives until an investigation, which can take weeks or months, is concluded.

This paper examines research on risk assessment methods in child welfare, as it relates to safety planning in DCFS. Risk assessment practices have become increasingly accurate at identifying a child's risk for abuse or neglect. However, use of a substandard risk assessment protocol, which may not accurately identify imminent harm, has the potential to misguide intervention, including the use of safety plans, and to infringe on parents' rights to the care and custody of their children without accurate cause. This paper will link the latest research on risk assessment practices to the legal controversy over the use of safety plans within DCFS and will conclude with recommendations for public policy and social work practice.

RISK ASSESSMENT PRACTICES IN DCFS: LAGGING BEHIND THE RESEARCH

Implemented in 1994, the DCFS Child Endangerment Risk Assessment Protocol (CERAP) is a 15-question "yes/no" checklist of risk factors for re-abuse, mitigating circumstances, and family strengths. "Re-abuse" is defined as the recurrence of abuse or neglect within 60 days of the start of the investigation. Mitigating circumstances are conditions that reduce the chances for abuse or neglect and family strengths reflect the psychological or relational resources a family can draw upon

for support. After filling out the 15 questions and narrative components, a worker uses clinical judgment to check one of two boxes: “safe” or “unsafe.” “Unsafe” means that a child is in imminent danger of moderate to severe harm.

CERAP is known as a *consensus-based model* because risk factors are derived from child welfare expert consensus, rather than evidence-based findings from research. Commonly used consensus-based models also include California Family Assessment Factor Analysis, known as the “California model,” and Washington Risk Assessment Matrix, referred to as the “Washington model.”

A second type of risk assessment is called an *actuarial model*, which differs from CERAP in important ways. Actuarial models include survey items that empirical evidence suggests are correlated with re-abuse. Each risk factor is statistically weighted to produce a high/moderate/low risk indicator. Actuarial models are not meant to replace clinical judgment altogether, but provide a structure for decision-making that counteracts cognitive errors and biases inherent in clinical judgment (Dawes 1996). A commonly used actuarial model is Structured Decision Making, referred to as the “Michigan model.”

Actuarial Approaches Consistently Outperform Consensus-Based Models

There is much research on the accuracy of various risk assessment models in predicting re-abuse. It is important to understand the conclusions of this research in order to better understand its ongoing role in the creation of safety plans.

From 1994-2000, the incidence of re-abuse in Illinois within the first 60 days of initial investigation fell from 2.7% to 1.3% (Garnier and Nieto 2001). This is a substantial reduction in re-abuse rates. Researchers credit the positive impact of CERAP for the drop (Fluke, Johnson and Edwards 1997). However, it must be asked if the CERAP led to more accurate risk assessments and therefore to more effective interventions on behalf of at-risk children, or if CERAP inflated the measure of risk, resulting in greater—and unnecessary—interference in parental rights. Removing substantially more children from the homes of parents in that time period would produce the same effect of lowering re-abuse rates. The true measure of a risk assessment instrument is not

only that it reduce re-abuse rates, but that it accurately distinguish families who are at high risk for re-abuse from those at low risk. So, what does the research conclude about risk assessment validity?

Validity

Baird and Wagner (2000) conducted the only nationally representative validity evaluation of risk assessment models. They compared the two most widely used consensus-based models, California's and Washington's, with Michigan's widely used actuarial model. In the study, experienced child welfare workers applied each model to real case facts in order to assess the models' accuracy in predicting re-abuse. Though the study did not include the Illinois CERAP, the two consensus-based models provided a suitable reflection of the CERAP design.

If a risk assessment model is accurate, "high risk" determinations will show the highest rates of re-abuse, "moderate risk" determinations will show lower rates of re-abuse, and "low risk" cases will show the lowest rates of re-abuse. The study found that only the actuarial assessment was able to differentiate between the three risk levels accurately (Baird and Wagner 2000). When case workers used the California consensus model, children rated at "moderate risk" and "high risk" had identical re-abuse rates. When the case workers applied the Washington consensus model, children estimated at "low risk" and "moderate risk" had identical re-abuse rates. In Illinois, "moderate risk" is often the minimum for immediate intervention to protect children and yet the findings of the study suggest that a risk assessment done with a consensus model cannot accurately distinguish between children at "low risk" and "moderate risk" of re-abuse.

The conclusions of the study are clear: actuarial models proved vastly better at identifying the true level of abuse risk to children. Further, the consensus-based models consistently overestimated the level of risk to children, while underestimating the cases in which children were actually at high risk of harm. Baird and Wagner's conclusions about the superiority of actuarial models are supported by other research on the topic. A meta-analytic review of 136 studies testing the two approaches indicated the superiority of actuarial models in nearly all of the studies (Dawes, Faust and Meehl 1993). A study of the same two models of risk assessment in

the New York child welfare system in the late 1990s led to a state mandate for the use of actuarial approaches based on their superior performance in assessing risk (Falco, George and Salovitz 1997).

Reliability

Another critical part of measuring the effectiveness of risk assessments is *inter-rater reliability*: when completing a risk assessment instrument, would two workers conclude similar risk levels on the same case (Rossi, Scheurman and Budde 1996)? Kang and Peortner (2005) conducted an inter-rater reliability study of CERAP. DCFS workers reviewed records of real cases and conducted a CERAP risk assessment for each case. The researchers report that the reliability of CERAP was “weak.” For the same cases, workers identified a wide range of risk factors and recommended very different interventions. Other studies have shown that actuarial models have much stronger inter-rater reliability.

Baird, Wagner, Healy and Johnson (1999) tested the two consensus-based models mentioned previously, those from California and Washington, with Michigan’s actuarial model. The study concluded that the actuarial approach was significantly more reliable than consensus-based approaches. The authors concluded the consensus-based approaches tested were “well below adequate.” Case workers rarely reached similar risk levels when given the same case facts (Baird et al. 1999, 743).

In sum, the research literature indicates that actuarial approaches succeed in evaluating risk and that consensus models have “serious problems” (Baird et al. 1999, 846). Therefore, it can be concluded that CERAP shares features of unreliability with the consensus-based models evaluated by Baird et al. Furthermore, the CERAP does not assist the worker in summarizing the information gathered and calculating risk, a function which would simplify the assessment process, reduce unintentional bias, and improve decision-making in time-pressured workplaces (Baird et al. 1999, 743).

Voluntary Safety Plans

When a child has been indicated as “unsafe” using CERAP, the child welfare worker will often offer a safety plan to the family

in lieu of the immediate removal of the child. Safety plans are tailored to the specific circumstances of each case. For example, in a sexual abuse investigation, a social worker and family can agree that the parent accused of perpetrating the abuse live elsewhere until the investigation is complete. DCFS protocol indicates that cooperation from the family should be enlisted when developing the terms of a safety plan. Because a child or children have been deemed “unsafe” according to the risk assessment done through the CERAP, the social worker must explain to the parents that if there is refusal to sign or follow through with an appropriate safety plan, the child or children may then be removed from the home, according to Title 89, Chapter III of agency regulations.

The Role of Voluntary Safety Plans

Safety plans have several useful purposes in the child welfare system. First, they offer an intermediary step between unrestricted custody by parents and protective custody by the state, an approach that provides stability in the child’s life and respects the custody rights of non-offending parents. Second, a safety plan offers a child welfare worker the opportunity to establish a therapeutic alliance with a family by jointly planning for a child’s safety. According to Dore and Alexander (1996), the therapeutic alliance is a positive relationship between worker and client that serves as a vital resource for beneficial client change. When utilized properly, safety plans allow the worker and family to collaborate in meeting the goal of child safety.

THE LEGAL CONTROVERSY WITH RISK ASSESSMENT

Again, according to Title 89, Chapter III of DCFS regulations, social workers are required to notify parents of the possible consequences of refusing a safety plan, which can include protective custody and/or a referral to the State’s Attorney’s Office for a court order. Plaintiffs in a recent Seventh Circuit Court Appeals case, *Dupuy v. Samuels* (2006), argued that though parents are officially said to *choose* participation in a safety plan, in practice, their participation comes through coercive tactics. Plaintiffs presented evidence that social workers, in practice, threatened the removal of children if a voluntary safety plan were not

signed. Social workers' promises of child removal constituted a coercive threat in which social workers overstepped their authority because, in fact, only a judge may authorize a removal.

Plaintiffs argued more broadly that the use of safety plans allows DCFS to circumvent court oversight by having parents "voluntarily" relinquish custody of their children. In one example cited by plaintiffs, a father was prohibited from living with his wife and children for six months while DCFS investigated an abuse allegation. Without clear regulations indicating the length of time a safety plan can separate a parent from his or her children, and without court involvement to ensure that parents' due process rights are considered, plaintiffs argued that safety plans represent a fundamental infringement on parents' rights. The court in *Dupuy v. Samuels* decided against the plaintiffs, arguing that safety plans are purely voluntary and that coercion only occurs when a social worker uses *illegal means* to obtain agreement to a safety plan, such as making physical threats against a parent.

"Coercion" in Context

While the coercion standard established in *Dupuy v. Samuels* is that there is no infringement on parents' rights in safety planning so long as the worker does nothing illegal, research on the function of power and reliance in the worker-parent relationship casts doubt on this contention (Bundy-Fazioli, Briar-Lawson and Hardiman 2008; Smith 2008; Payne and Littlechild 1999). According to Smith (2008), child welfare workers wield an immense amount of power during their interactions with parents. Workers come equipped with an in-depth knowledge of the child welfare system and conferred status as government representatives while parents often have limited knowledge of the child welfare system and their legal rights. One recent study of the social worker-parent relationship in Britain found pervasive feelings of powerlessness among parents (Bundy-Fazioli et al. 2008). The parents in that study felt that workers had control over them, and some felt workers were unfair or abusive towards them. Certainly not all worker-parent relationships are so negative, but the prevalence of "hierarchical and imbalanced power" is common (Bundy-Fazioli et al. 2008).

Not only is there a power imbalance in the worker-parent relationship, but the parent must rely on the worker's judgment

of their parenting ability, the safety of their children, and the presence of distressing socioeconomic circumstances versus neglect. The parent must also rely on the worker for access to knowledge about the investigation process and for access to procedural rights. It is within this context, with its imbalance of power, that a parent may hear a DCFS worker say: "We ask that you participate in this voluntary safety plan. If you do not, the state may seek to take protective custody of your children."

Further Complicating "Voluntary": Disproportionate Minority Contact

Issues of coercion and "voluntariness" must also be considered in light of racial disparities in the implementation of child welfare law. In *Dupuy v. Samuels*, the court stated that if a parent is indeed not abusing or neglecting children, the parent can freely refuse a safety plan, because safety plans are "optional" and "impose no obligations on anyone." If DCFS removes the children in response to a parent's refusal to cooperate with a safety plan, the parent is entitled to a judicial hearing on the merits of the removal within 48 hours.

The court makes the critical assumption that the child welfare system and juvenile courts are neutral bodies where fair and equitable adjudication of abuse and neglect cases occur. A wealth of research on disproportionate minority contact in child welfare indicates that in child welfare, all are not equal before the law (Chapin Hall 2009; Harris and Hackett 2008; Hill 2006; Roberts 2002). Black children are three times more likely than White children to be removed from their families of origin and placed in foster care (U.S. Department of Health and Human Services 2000). Higher rates of poverty among people who are Black only account for a small portion of this difference. The majority of disproportionate minority contact in the child welfare system is due to institutional and individual biases at all levels of the child welfare system (Roberts 2002). Even when caseworkers are given identical vignettes of child welfare cases, those families described as Black are far more likely than those described as White to be judged as abusive (Roberts 2002, 5). A report by the Children's Hospital of Philadelphia (2002) found that children with accidental injuries were three times more likely to be reported as abused if they were African American

or Latino than if they were White. In another study, race was shown to be the only explanatory variable in the higher reports of abuse and neglect for Black families (Eckenrode et al. 1998).

For Black and Latino families, there is no guarantee of equitable treatment by social workers, attorneys, or judges. Within this context, when a social worker asks a parent to leave the home voluntarily, according to a safety plan that restricts parents' custody of their child, the difference between "voluntary" safety plans and court-ordered removal may become blurred.

IMPLICATIONS FOR COURTS, PUBLIC POLICY, AND SOCIAL WORK PRACTICE

Workers in child welfare are often thought of as "street level bureaucrats" because of the wide discretion they have in the daily implementation of public policy (Lipsky 1980). This discretion can lead to abuses of power in the worst cases. But discretion can also harness the positive potential of street level bureaucracy to enact viable solutions to the current problems with safety plans.

The first change social workers can make at the street level is to divide safety plans into those that separate children from parents and those that do not. For example, many safety plans call for parents to refrain from using physical discipline. These plans do not infringe upon fundamental rights and should be kept as voluntary agreements. However, safety plans that call for removal of parents or children from the home should be procedurally reclassified by child welfare agencies and given the same due process hearings as protective custody orders.

A second solution, more specific to DCFS, is to alter the risk assessment tool in use. There is precedent for such change. In 1994, the Illinois legislature mandated that DCFS devise a new risk assessment tool that would reduce errors in risk estimation. Given that the CERAP is now known to be less effective in estimating re-abuse risk, administrators in DCFS have cause to revisit CERAP and implement an evidence-based actuarial model.

A final aspect of improving the balance between ensuring child safety and respecting the rights of parents involves enhanced training for social workers. "Child protection" is often a synonym for the child welfare system; however, it is critical that training of workers include not only attention to the protection of children,

but also additional attention to knowledge of parental rights and an appreciation for the importance of the parent-child bond. A more complete education in these areas is needed to ensure the child welfare system respects the fundamental rights of parents as it seeks to ensure the safety and well-being of children.

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