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# PRAXIS

## POLITICS IN ACTION



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### ***LAND ACKNOWLEDGEMENT***

We recognize the University's location on the traditional territories and ancestral homelands of the Cheyenne, Arapaho, Ute, and many other Native American nations.

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# A Message from the Editor

We find ourselves in a unique moment as universities nationwide face increasing federal funding challenges. Despite these obstacles, I remain hopeful that future funding decisions will continue to prioritize the development of exceptional curricula that elevate the field of education.

Education is the cornerstone of growth and transformation. It empowers individuals to recognize their own potential and the value of their contributions. The journey of education is not only a personal triumph—it is a legacy that impacts families and communities. For many students, attending college marks a historic first in their families, and I deeply admire those who have overcome barriers to forge new paths forward.

As I return to school, I feel incredibly fortunate to be part of the University of Colorado Denver community—an institution that encourages engagement with thought-provoking topics, critical issues, and dynamic coursework.

Serving as Editor of *PRAXIS* has been a deeply rewarding experience. It has allowed me to collaborate with talented authors and students who bring insight, dedication, and rigorous research to their writing. This role has also allowed me to reconnect with my roots in journalism and content management, stemming from my undergraduate degree in Journalism.

It has been an honor to serve in this capacity over the past year. I would like to extend my sincere gratitude to Dr. Tony Robinson, Faculty Advisor, for his unwavering support and guidance in making *PRAXIS* a truly exceptional student journal.

Lastly, I want to commend every student who submitted their work. Each piece reflects thoughtfulness, effort, and a unique voice. It has been a joy to read and review your contributions.

Warm regards,  
Bridget Myers, DPT  
Master's candidate, New Directions Program  
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# Democratic Introspection: In Defense of Woke and LGBTQ+ Rights

Sergio Landaverde

**Abstract:** *The 2024 election granted former President Donald Trump a second term. This victory was distinct in that it rejected the Democratic party in several ways, a loss in the Senate and House, an Electoral College defeat that made Trump the 45th and 47th President of the US, and arguably, most demoralizing, the loss of the popular vote for the first time in 20 years. This has led to a dissection*



*of the Democratic party and its values; some have called to leave LGBTQ+ issues behind because they are hurting the party. This trend of abandoning vulnerable communities and using them as scapegoats for a country or party's problems is part of a larger global trend. This paper will highlight that the political scapegoating and abandonment of allyship with the LGBTQ community and women has resulted in no material benefits for the people of Argentina and has not provided the Labour Party in the United Kingdom with any popularity. As the Democratic party weighs the impact of issues following the 2024 loss, it is important to take into account the results of the election. Across the country LGBTQ+ candidates and initiatives performed better than Democratic candidate, former Vice President Kamala Harris. These results coupled support of economically progressive ballot initiatives and voters' lack of confidence in Harris in regard to economic issues, presents us with an alternative explanation for Harris' loss and the subsequent victory of Donald Trump. Rather than losing because of "wokeness" or LGBTQ+ allyship, voters were more inclined to support Trump because of his appeal to the working class and a promise that he would*

*work for them, and less inclined to support Harris' shakily structured more pragmatic economic messaging.*

## International Background

Across the West and other parts of the world, the far-right has decried "wokeness," and with such attacks has dragged center-right and left leaning parties

to engage in the toxic discourse as well. Early in the 2024 campaign season, Donald Trump took to Instagram to share an image of his uncle at Massachusetts Institute of Technology, "long before it was woke!" (Trump 2024a), offering a glimpse of the American right's disdain for "woke" higher education. This trend continues across the Atlantic, when last December (2024), French Member of Parliament Florence Goulet brought up the question of "woke" ideology in French higher education (Goulet 2024). In Spain, the far-right VOX party has said "woke" ideology instills evil in man (VOX 2023). Before the United Nations, newly elected Javier Milei, the president of Argentina, decried "woke" stating "We are at the end of a cycle. The collectivism and moral posturing of the woke agenda has clashed with reality. They no longer have solutions for the real world. In fact, they never did" (Milei 2024). The open condemnation of "woke" from the United States to the United Nations underlines the salience this issue has gained across the world.

Beyond the immediate political sphere, criticisms of media, sports, universities, and all aspects of popular culture for being "too woke" have infiltrated the

social banter, mostly through political figures. America's "war on woke," following Trump's recent presidential victory, is well known. But this development isn't just seen in the U.S. Members of Germany's steadily popular Alternative für Deutschland (AfD) (Politico 2024), were quite critical of Germany's diverse national soccer team in this year's Euro Cup. Björn Höcke, leader of the AfD in southern Germany, said the team was "oozing with rainbow ideology" (Höcke 2024). Maximilian Krah, AfD member in the European Parliament, referred to the team as a "politically correct mercenary squad" in a now deleted TikTok video (Streamline 2024). Following the announcement that French and worldwide popstar Aya Nakamura would be performing at the 2024 Olympics Opening Ceremony, the French far right did not hold back about their discontent with the choice of a black performer for this role. Niece of Marine Le Pen, Marion Marechal, said that "The French don't want to be represented in the eyes of the world by a singer whose style is influenced by the hood and Africa. This is a political move by Emmanuel Macron, who wants to tell the world that the face of France is multicultural, and we're no longer a nation with Christian roots and European culture" (Marechal 2024).

"Woke" has become the leading current boogeyman for the right. Its usage is found everywhere, from radio interviews to United Nations speeches. Trump shares images of a time before "woke". French MP Goulet says "woke" has infiltrated France's educational institutions. Höcke, describes it as having to do with "rainbows" as in support for members of the LGBTQ+ community. Marechal ties "woke" to support of a black woman. In these episodes, being anti-woke does seem to have a clear element of bigotry and increasingly open displays of racism.

Surpassing the bounds of rhetorically charged interview responses or speeches, the anti-woke movement also comes with policy consequences. In Argentina, Milei has dissolved the Ministry of Women. This state department was tasked with overseeing several key issues surrounding women's rights in the country, including domestic violence cases. According to Milei, "it was created and used by the past administration for beneficial partisan and political ends, to propagate and impose an ideological agenda" (Milei 2024). In the United Kingdom, the prominent TERF (trans-ex-

clusionary radical feminist) movement has popularized anti-trans sentiment (Lewis 2019). The Conservative party in Britain has, for some time, been shaky in their commitment to LGBTQ voters (Wareham 2019). But the 2024 election solidified their stance a bit more. In early 2024, the National Health Service (NHS) announced that they would no longer provide gender-affirming type of care to those under 16 years old (NHS 2024). This national health policy has been announced even though the use of hormone therapies for trans individuals during their adolescence has resulted in better mental health outcomes going into adulthood (Digitale 2022). To deny these individuals of their identities for political points is dangerous and further exacerbates the disproportional suicide rates impacting trans people. Nevertheless, soon after the UK's National Health Service ban on gender-affirming care, the Conservatives approved an emergency ban against hormone blockers for those under age 18, using private health coverage (Department of Health and Social Care 2024).

In the UK, the Conservatives have seemingly won the debate around who can access gender-affirming care. The center-left Labour party has subsequently caved to the anti-trans sentiment in the political environment. In its 2024 party manifesto, Labour commits to implementing, "the expert recommendations of the Cass Review to ensure that young people presenting to the NHS with gender dysphoria are receiving appropriate and high-quality care" (Labour 2024). The Cass Review has come under scrutiny for both methodological flaws and integrity concerns in their research, through their misrepresentation of data as well as publishing work anonymously. To take the finding of the Cass review at face value is a disservice to providers of care and trans youth alike, especially, since they deem expertise as bias (McNamara et al. 2024). Additionally, Labour has also committed to upholding the ban on gender affirming care for youth proposed by the Conservatives (McKay 2024).

So what have been the early results of electing cultural-warriors obsessed with "anti-woke" policy agendas? The Economic Ministry of Argentina finds that a year into Milei's anti-woke governance, 53% of Argentinians find themselves living below the poverty rate (Lavagna et al. 2024), the highest level in 20 years (Salvia et al. 2024). Electorally, Keir Starmer's

Labour party faces serious challenges with high levels of unpopularity, despite being in government for less than a year: 45% of Britons have an unfavorable view of the party, and only 29% approve (G. Skinner et al. 2024). Labour's attempts to meet the right where they are, and join in the war on trans rights, has resulted in little to no electoral benefits. It is clear that the war against whatever "woke" is, has provided no benefit to the people of Argentina, and is not leading left-wing Labour, in the UK, back to the electoral promised land. In the UK, Labour's attempt to appeal to the far right, which is so enigmatically obsessed with trans individuals, has provided no electoral benefit. In the wake of shocking electoral victories like America's Trump in 2024, Trumpian appeals to anti-woke sentiment have been presented as a necessary path to electoral victory for "progressives" worldwide, but there is little evidence that such a strategy is actually well-advised, either for the political parties who cave or for the people they represent in governance.

## The United States

Following the loss of both Houses of Congress and the presidency, in 2024, and loss of the presidential popular vote for the first time in 20 years, America's Democratic party will spend these next few years asking why. An easy answer to this question is finding who to blame and who to scapegoat. In 2016, many placed the blame on progressive factions of the Democratic party, Hillary Clinton even mentioned Bernie Sanders in her postmortem book, "What Happened" (Clinton 2017). This time around, Democratic introspection has resulted in a quick condemnation of "woke" culture, in other words too much attention to People of Color or LGBTQ+ communities.

As a showcase example, Democratic representative Seth Moulton of Massachusetts was not shy to express his unsubstantiated claim as to why Democrats lost on November 5th:

"Democrats spend way too much time trying not to offend anyone rather than being brutally honest about the challenges many Americans face... I have two little girls, I don't want them getting run over on a playing field by a male or formerly male athlete, but as a Democrat I'm supposed to be afraid to say that" (Moulton 2024).

Here Moulton, cites the complete non issue of trans people in sports as a key factor to Democratic losses—though only a very tiny percentage of trans persons compete in sports, and even fewer examples exist of little girls "getting run over" by a formerly male athlete. To his credit, Moulton also points to the seemingly ignored "challenges many Americans face" but immediately after mentioning this concern, Moulton pivoted to blaming Democrats for their focus on trans rights.

There is little evidence that a focus on justice for queer communities and for the working class are somehow mutually exclusive or incompatible agendas. The Democratic party should prioritize messaging around class struggles, however this does not mean they have to cave to Republican bigotry on queer rights—especially when evidence from political polls and election returns does not suggest that an attack on queer communities will suddenly catapult the Democrats back into power.

In the U.S. as well, a careful analysis of election results across the country, highlight that LGBTQ+ related initiatives and candidates were unaffected by Democrats "spending way too much time trying not to offend anyone," as Representative Moulton believes. In all cases, LGBTQ+ related initiatives and candidates actually performed better than Vice President Kamala Harris. To suggest that the Vice President spent time campaigning on LGBTQ+ issues is also false, instead Harris tiptoed around this issue entirely.

In the next three sections I will present evidence: 1) that the Harris campaign was not too "woke" but rather they tiptoed around LGBTQ+ related issues, and 2) that LGBTQ+ related measures and candidates performed better than Harris. The evidence will demonstrate that 3) voters did not punish Democrats for their inclusivity and (very moderate) attention to LGBTQ+ issues, but rather for the party's lack of powerful economic messaging, which in no way would require them to abandon a commitment to LGBTQ+ justice.

## The Harris Campaign

It is commonly believed that the Harris campaign focused a lot of energy on the LGBTQ+ community and related issues. The Trump campaign is likely to be blamed for this perception of the Harris campaign,

especially through its barrage of ads saying “Harris is for they/them. Trump is for you.” But in reality, Harris paid only minimal attention to LGBTQ+ issues in her campaign. In August, Harris officially accepted the Democratic party’s nomination at the DNC in Chicago. Her speech only briefly alluded to her endorsement of gay marriage. Harris referred to the freedom, “to love who you love openly and with pride” as being “at stake” this election (Harris 2024). Nothing more was said about this issue.

During the campaign, Harris was never openly vocal about support for trans rights. During an interview Harris was asked about her position on access to gender affirming care, to which she only answered, “I think we should follow the law.” This is quite a vague response, even deemed so by the interviewer. Hallie Jackson from NBC News replied, “They’re trying to define you on this. I am asking you to define yourself,” but again Harris only said she would follow the law (Harris 2024). This vague notion of turning to the law and attempting to seem moderate on this issue provided absolutely nothing for the Harris campaign’s image and is certainly not evidence of the Harris campaign being obsessed with trans rights during the campaign.

Harris’ frail attempt to appeal to voters concerned about the trans issue had a very slim chance of competing against Trump’s rhetoric and campaign spending. In the end Trump won the narrative war and was successful in framing Harris as a trans extremist. The beginning of this success was during the September 10th, 2024, debate, when Trump said, “Now she wants to do transgender operations on illegal aliens that are in prison. This is a radical left liberal that would do this” (Trump 2024b)., Trump managed to use negative buzzwords associated with Democrats in two blatantly false sentences. Additionally, the \$215 million in anti-trans ads also doomed voters’ perceptions of Harris (Barrow and Levy 2024). A post-election survey found that voters felt that “Kamala Harris focused more on cultural issues like transgender issues rather than helping the middle class,” which was the third biggest reason as to why voters did not vote for the Vice President (Blueprint 2024). While this allegation of a Harris obsession with trans rights is a false narrative, there is evidence in the polls that the trans rights issue itself is not what doomed the Harris campaign. Rather, the issue was

not that Harris focused on transgender issues, per se, but that she allegedly focused more on trans issues “rather than helping the middle class.”

It is clear that Harris’ attempts at moderating on the “trans” issue were feeble and Trump’s lies and ad spending were more effective. Despite this, voters did not necessarily take issue with Harris’ support of trans people, rather they were concerned with her lack of clear plans to help the middle class. It was only the absence of a strong and believable Democratic economic reform agenda that made Harris vulnerable to Trump’s claims that she was focused only on “work” cultural issues.

### **Electoral Performance of LGBTQ+ Candidates and Ballot Measures**

The 2024 election saw a multitude of LGBTQ+ candidates run for office across the country. November 5th also featured votes on several ballot measures and initiatives regarding LGBTQ+ rights. Across the entire country, across predominantly white states, diverse states, and racially or economically diverse congressional districts, LGBTQ+ candidates and ballot measures did better than Kamala Harris. The support for these candidates and initiatives discredits the claim that supporting these “woke” issues and candidates is toxic for the Democratic Party. Instead, the overperformance of LGBTQ+ issues and candidates compared to the top of the ticket suggests that Harris’ electoral problem was largely centered around her and her campaign.

In New York State, Kamala put up an anemic performance in the traditional Democratic stronghold. Her measly 12.6% victory over Trump is the worst performance for a Democratic presidential candidate since 1988 (Leip 2024). This is in large part due to her severe underperformance in New York City. For example, diverse and heavily working-class Bronx County, shifted a whopping 22-points right from 2020 (New York Times 2024b) though Harris still won the county.

Also on the ballot was New York Proposal I. This proposition would embed protections around race, color, ethnicity, national origin, age, disability, creed, religion, or sex, including sexual orienta-



tion, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy into the state's constitution (New York State 2024). Groups like Coalition to Protect Kids NY, used ads with anti-trans rhetoric to sway voters against voting for the measure (The Coalition to Protect Kids New York 2024). Former Representative Lee Zeldin, also came out against the proposition, saying that women's rights and safe spaces would be put in danger if formal protections were offered to LGBTQ+ individuals (Zeldin 2024). Overall, millions were spent on ads trying to dissuade voters from approving the measure (Mahoney 2024).

The fight over Prop I was not very pretty. Anti-trans activists spent millions to get voters to vote "No." Despite this, Prop I was easily approved by New Yorkers with 62.5% of the "Yes" vote beating "No" by 25% (The Washington Post 2024). Revealingly, this measure performed over 12% better than Harris did, across New York. In the Bronx, Prop I performed exponentially better than the top of the ticket. Here, "Yes" received 83.3% of the vote, beating "No" by 66.6%, a 20% difference between support for "woke" issues like LGBTQ+ and racial protections, and support for Harris (The Washington Post). A measure targeted and vilified with transphobic rhetoric massively outperformed Harris, who was quite fearful of being framed as pro trans. The fact that this measure performed so well in places where Harris completely collapsed, like the Bronx, supports the conclusion that the problem with the Harris campaign was not "woke" support for LGBTQ+ communities, but must have been some other factor.

There is a similar pattern of LGBTQ+ related ballot measures performing better than the VP across the country. In her home state of California, Harris won by 20.2% (Weber 2024). At the same time, Proposition 3, the constitutional right to marriage, won by 26%, a 6% better electoral performance Harris herself (representing over 200,000 additional raw votes for same-sex marriage than for Harris) (Weber 2024). In Colorado, Harris won by just under 11%, while the removal of a same sex marriage ban in the state constitution was approved by 28% (Griswold 2024) Only across the Pacific, in Hawaii, did Harris perform better than the state's Amendment 1, which would revoke the legislature's author-

ity to limit marriage to heterosexual couples (State of Hawaii); some attribute the 6% underperformance of that state's same-sex marriage protection to the confusing language of the amendment (Tsai 2024).

Another aspect that LGBTQ+ community scapegoaters are looking past is the performance of LGBTQ+ candidates, especially, relative to Harris' performance. In Minnesota's second Congressional district, openly lesbian Representative Angie Craig won by 13.45%, Harris only won by 5.8% (Simon 2024). In California's 42nd Congressional district, gay Representative Robert Garcia, won by 36.3% in a heavily Democratic district (Weber 2024), outperforming Harris by roughly 4% (Patterson 2025). In a very close statewide election, openly lesbian Senator Tammy Baldwin won her Senate seat in Wisconsin, even as Harris lost the swing state (The New York Times 2024c). In Delaware, voters sent the first transgender person to Congress, Democrat Sarah McBride. McBride received the highest vote share of any federal candidate in the state, performing better than Harris and former Congresswoman and Senate candidate Lisa Blunt Rochester (State of Delaware 2024).

Across the country, LGBTQ+ candidates and ballot measures faced diverse electorates. Despite large spending against the issue, LGBTQ+ protections were expanded by a large margin in New York. The right to marriage for gay couples was approved in three states, consistently doing better than Harris at the polls. From coast to coast openly LGBTQ+ candidates also outran the top of the ticket, making it clear that these identities are not as destructive to the Democrat's electoral prospects as some might believe.

### **It's the Economy, Stupid**

Rather than an obsession with "woke" cultural wars, the real reason for the Democrat's 2024 failure was their dearth of attention to issues of economic justice. Without a clear economic agenda, the Harris campaign failed to connect to working class voters. Trump won a majority of voters making under \$100,000, and as majority of those making under \$50,000, quite a repudiation of the narrative that Democrats are the working-class party (CNN 2024). Pre-election polling further emphasizes the importance of the economy for voters, and whom they deemed more competent to

tackle the issue. Fifty-two percent of voters reported that the economy was an extremely important issue to them, while an additional 47% saw it as very important or somewhat important. The same poll found that 54% of voters said they trusted Trump more than Harris to handle the issue of the economy (Brenan 2024).

The independent Bernie Sanders was quite critical of the party for the lack of an economic message in his postmortem of the 2024 campaign. The Senator cited stagnant wages, inflation, inaccessible healthcare, the funding of wars, and the lack of any plan to tackle these issues as causing a disconnect between the Democratic Party and the American populace. “It should come as no great surprise that a Democratic Party, which has abandoned working class people, would find that the working class has abandoned them (Sanders 2024).

Upon further examination of elections across the country it is clear that Sanders’ argument concerning the Democrats’ lack of working-class support holds more weight than the perspective of fellow New Englander, Seth Moulton, that the Democrats had become too “woke” on trans issues.

Consider the evidence from the many state ballot measures related to economic issues. In Alaska, Trump carried the state handily. However, as Trump won the state by more than 10%, Measure 1 (which would raise the minimum wage to \$15 and implement paid sick leave) was also approved with 58% of the vote (New York Times 2024a).

Interestingly, Democratic incumbent House Representative Mary Peltola lost her re-election to the Republican challenger Nick Begich. Peltola ran a campaign centered around “defending Alaska,” protecting things like Social Security, the fishing industry, reproductive freedom, and Alaskan’s jobs (Mary Peltola for Congress 2024). She offered little to nothing regarding increasing wages or improving healthcare, which Senator Sanders argues is critical, and which Alaska voters approved handily in passing Measure 1.

In Missouri, there was a similar story as voters overwhelmingly voted for Trump while also voting to increase the minimum wage. Trump won the state with 58% of the vote while Proposition A’s minimum wage increase also passed (Ashcroft 2024). In Oregon,

Harris carried the state with 55% of the vote, while a measure that would allow cannabis workers the right to unionize slightly outran the VP, passing with 57% of the vote (State of Oregon 2024). The Harris campaign made no commitments similar to the policies these ballot measures would implement, such as improved support for unions or passing paid sick leave.

Looking at these election results, Senator Sanders’ claim that the real problem of the Democrats is lack of a class justice message becomes more persuasive. In an interview with Joy Reid, Congresswoman Alexandria Ocasio Cortez similarly reflected that the infamous “they/them” ad was perceived differently by voters than what many believe. This ad concluded with a line that “Kamala Harris is for they/them. Donald Trump is for you.” While many people point to this ad as evidence of the effectiveness of anti-trans politics (criticizing Harris’ support for “they/them”), Ocasio Cortez argues the most effective part of the ad wasn’t “Kamala Harris is for they/them” but rather was the emphasis on how “Donald Trump is for YOU” (Ocasio-Cortez 2024). Looking at the success of ballot measures that would foster better conditions for the working class, together with the overperformance of LGBTQ+ friendly initiatives and candidates, it is much more likely that Vice President Harris was punished by voters not for being woke but rather for offering too little to working class voters. Harris was not “for YOU” in an economic justice sense, while Donald Trump successfully made himself out to be a working-class hero.

## Conclusion

Around the globe, the right has villainized “woke.” Woke seems to encapsulate inclusion and progression of historically marginalized groups, in particular Black people and members of the LGBTQ+ community. To be anti-woke, as some claim, seems to involve being openly racist, homophobic, transphobic, and willing to put marginalized communities in danger. It is important that the U.S. Democratic party not cave to this notion that being anti-woke is electorally or materially successful, like UK’s Labour did, especially since there is little hope that such a morally bankrupt strategy can lead to Democratic electoral victory.

There is little evidence that LGBTQ+ candidates or

measures are toxic to the Democratic party's future prospects in the U.S. It is understandable that losing the popular vote for the first time in twenty years can incite a reactionary response in Democrats, but taking a moment to fully gauge the results would reveal that LGBTQ+ support remains high. Instead, a lack of focus on economic issues, inflation, and a narrative that made Trump the working-class candidate, were more harmful to Harris than any of the less than 100 trans athletes nationwide (A. Skinner 2023).

Beyond whether there are or aren't electoral benefits to supporting LGBTQ+, the now most Democratic voting bloc in the US, even more than Black voters (CNN 2024), this community should be supported by the party that professes to stand up for all people, especially the most vulnerable. Robert F. Kennedy, who does not believe that HIV leads to AIDS (Bendix 2024), is now the Health Secretary. Former South Dakota Governor, Kristi Noem, who spent time as governor signing legislation harmful to trans people (State of South Dakota 2023, 2022) is now in a top cabinet position too, political allyship for the LGBTQ+ community will be vital.

There are a multitude of factors that might have contributed to Vice President Kamala Harris' loss. Looking at federal races and a variety of state propositions it seems like LGBTQ+ issues faced no pushback from voters. Alternatively, exit polling, post-election surveys, and the results of various economic related propositions in states paint a picture depicting the economic dissatisfaction of Americans. Bernie Sanders' blame on the disconnect between Harris and voters' material concerns holds more weight than Seth Moulton's blame on the supposed disconnect between Harris and voters' concerns with LGBTQ+ people.

It seems that economic insecurity played a large role in this election, while cultural issues and "woke" took a backseat. Democrats should learn the right lessons and stand strong with their LGBTQ+ allies, while developing commitment to an economic justice message with real teeth.

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# Camping on Constitutional Grounds: The Legal Dynamics of Student Activism on the Auraria Campus

Chloe Ragsdale



**Abstract:** On April 26, 2024, forty students on the Auraria campus were arrested due to their involvement in an encampment protest that marked their demands on the CU institutions to end their financial ties to the US Military, US government, and other entities that operate in Isreal who are supporting Isreal's perpetuation of genocide in Palestine. The encampment was orchestrated in lieu of a nationwide uprising of encampment protests on college campuses that stood in support of Palestine, which left hundreds of students arrested and encouraged the question of how students' First Amendment rights apply to these specific situations. While understanding that this was a nationwide event, this thesis will focus on the encampment on the Auraria Campus and how the First Amendment works to protect or deny the students' rights to protest and assembly via encampment. By applying key legal prece-

dent from landmark First Amendment cases, this research evaluates whether the arrests at Auraria were lawful or infringed upon fundamental rights. The methodology includes interviews with students, faculty, legal experts, and administrative sources, as well as interviews with defense attorneys, including representatives from the Foundation for Individual Rights and Freedoms (FIRE). Local news sources and press releases were analyzed to investigate administrative and police involvement in the arrests. Ultimately, this research situates the Auraria encampment within broader discussions of student activism, free speech, and the legal boundaries of protest in higher education. By critically assessing the legal, institutional, and social dimensions of this event, this thesis aims to contribute to the ongoing discourse on the rights of students to engage in political expression on public

*university campuses, especially as restrictions on student political speech have become a central focal point of the newly elected Trump administration.*

## **THE BATTLE OF AURARIA**

### **From Protest to Police Action**

Harriet Falconetti didn't expect to go to jail during her sophomore year of college. As a twenty-year-old student at University of Colorado Denver (CU Denver), she expected to finish up her finals, put the last few pages together for the end-of-semester student newspaper, and join her fellow Students for a Democratic Society (SDS) members on the Tivoli Quad in solidarity with Palestine. But on April 26, 2024, Falconetti found herself handcuffed, thrown into a jail bus, and taken to the Denver County Sheriff Department, where she spent the night alone in a cell dedicated to transgender prisoners. With nothing to do but flip through pages of a Bible provided in the cell, she contemplated the string of events that left her and seventy-nine other individuals behind bars in what CU Denver Political Science professor Jim Walsh dubbed the "Battle of Auraria."

Pro-Palestine encampment protests erupted across the country on college campuses in late April and early May 2024, with students uniting against their institutions to demand divestment from United States military and government entities that operate in Israel, and to disclose how their tuition money was working towards this cause. On the Auraria campus in Denver, Colorado, tent poles struck the Tivoli Quad on April 25, surrounded by Palestinian flags, keffiyehs, and soon to be dozens of Denver community members and students across the tri-institutional campus.

The encampment was spearheaded by the Denver chapter of SDS, whose purpose for the encampment was to demand CU Institutions to divest from corporations that operate in Israel, refuse grants or funding from corporations that contract with the U.S. Armed Forces, terminate these relationships, end study abroad programs in Israel, publish a statement that condemns the genocidal actions of Israel, and report full transparency of the institution's financial investments, including how student's tuition was being invested. SDS also wanted to meet with former

Chancellor Michelle Marks of CU Denver to discuss the implementation of their demands.

What began as a student-led effort to bring attention to the ongoing humanitarian crisis in Gaza quickly became violent as Auraria Campus Police Department (ACPD) and Denver Police Department (DPD) law enforcement were called to the scene around noon on April 26. Before the unprecedented police presence on campus came a sling of menacing official messages from campus authorities alleging "civil unrest" that confused students and faculty on campus as to the happenings on the Tivoli Quad.

Starting at 12:31 pm, students and faculty received a message that read, "Auraria Emergency Alert: Due to civil unrest, please avoid the Tivoli Quad." At 12:58 pm, another message read, "Auraria Emergency Alert: All inbound traffic to the Auraria Campus is closed." Law enforcement surrounded the Auraria campus, blocking all incoming traffic from entering.

Meanwhile, the small force of SDS students, joined by fellow protesters from the campus and surrounding Denver community, made camp. Many, if not most, bystanders considered the encampment to be peaceful: still in beginnings, the dozen or so tents that scattered the lawn didn't seem to pose a threat of "civil unrest" to the campus.

But during the times that these messages were sent, the DPD had already swarmed the Auraria campus, along with a jail bus that was parked in front of the Tivoli Quad. Police officers, equipped in expensive riot gear and some even carrying pepper ball guns, arrived on the Quad, positioning themselves in a circle surrounding students sitting near the encampment. These police were soon encircled by standing protesters, all linking arms and chanting their message of "Free Palestine."

Law enforcement began arresting the students sitting near the encampment, forcefully dragging them off the ground and taking them to the jail bus. The standing protesters began forming mass circles of linked arms around the police line in an effort to prevent arrests. One protester was forcibly shoved out of the way by an officer, who then proceeded to lock him in handcuffs and take him to join the other students in the jail bus. An anonymous bystander reported that

they saw a police car's side mirror hit the shoulder of a protester on their way off of the campus, and the impact was so hard that it collapsed the mirror inwards.

Another anonymous student who was attending a nearby celebration of student research, witnessed the unfolding aggression by police forces on the Tivoli Quad, commenting that, "It was so dystopian being at an event that was awarding students for their research at an equity serving institution and watching students being arrested right outside the window, just because they were protesting to achieve equality and justice."

The arrest process continued for about two hours, with members of the DPD capturing sitting protesters one by one and increasingly encircling the demonstrators, whose chants of "Fuck 12," "Fuck Pigs," "Keep your hands off our kids," and "Why are you in riot gear/ I don't see a riot here" filled the air as the police officers' presence grew more forcible.

In a reaction to the extremities of the police force against the protesters' peaceful gathering, an anonymous student commented that, "People are sitting. Outside. In a tent, sipping freaking gatorade. And they're [DPD] in riot gear... And we're just a bunch of college students or whatever, but they have a prison van and riot gear. These guys are scared shitless of what we can do."

"To me, this is a gross affront to any form of free speech and any form of free protest," said Keegan, a student at CCD. "We've seen what happens when armed forces show up to protest, especially on college campuses. I was just hoping that Auraria would do better than this. I was hoping they would have enough of an understanding that there are many students here, all through different walks of life, and that we deserve better than this as students. And we deserve better for trying to have an opinion in a world that, quite frankly, could care less about what we have to say."

Keegan's plea that "we deserve better" was something that has echoed across the student and faculty populations since the arrests made on April 26. When individuals are arrested for engaging in protest, no matter the preexisting stipulations over their methods of protest, questions of First Amendment rights are inevitable to come into play.

According to the Auraria Campus Police Department (ACPD), 80 arrests were made over the course of four days (April 26, May 7, May 13, and May 14). Out of these 80 arrests, 17 were students, three were faculty members, and the rest were community members unaffiliated with campus.

Out of these 17 students, some were prepared to be arrested and to sacrifice their safety, and arguably their futures, to participate in the encampment. One such student is Paul Nelson, a former MSU student who was one of the eight or so SDS members who rallied together in the midst of nationwide encampment protests for Palestine, packing together his tent, keffiyeh, and warm clothes on April 25 and heading to the Tivoli Quad.

By 6:00 pm on April 25, Nelson and the eight or so other SDS members there were faced with a choice: end the encampment right there, or continue through the night but face consequences the next day. According to Nelson's memory of the day, the organizing encampment members met with numerous campus officials, including Larry Sampler, the Vice President of Finance and Administration and Chief Operating Officer for MSU, members of CU Denver's Student Life and Campus Community office, and Angie Paccione, the Executive Director of the Colorado Department of Higher Education.

"The type of protest that we were about to undertake was the type that they could not ignore and that they could not repress by any means. And so I knew that that was, like, a great risk," says Nelson.

While students like Nelson were aware of the legal consequences of their actions, the actions leading up to their arrests present some inconsistencies with their charges, and reflect the wider inconsistencies in charges that have been given to the seventy-eight other protesters who were arrested.

On the day of the arrests, Nelson joined other protesters around the encampment by linking arms and singing "We shall not be moved" to the onslaught of law enforcement that surrounded them. As he got dragged off the ground by a police officer, he begged for the officer to do better: "You don't have to actually follow an illegal order. You can refuse to comply with an illegal order. You have an ethical duty to," he told the officer.



Before her arrest, Falconetti was “chilling at the encampment” before the time of the arrests, chatting with her fellow SDS members and soaking up the afternoon sunlight. She didn’t link arms with the other protesters when the police arrived as she was documenting the interactions with her camera. She eventually joined the outer ring of protesters that surrounded the police who swarmed over the sitting protesters, where she was “pushed over” by an officer, handcuffed, and dragged to the bus.

Lucia Feast, a MSU student and another member of SDS who was present at the encampment from the first day to the last, was also arrested on April 26 “on her own campus for sitting on the lawn.” Layne Hellman, a member of SDS and a CU Denver student, linked arms with their fellow protesters after receiving the “civil unrest” messages, and said that “we were all chanting, and they just went down the line and started directing students, one by one, students and faculty and community members, everybody,” to the jail buses. “We were cornered by the police so we couldn’t get out if we wanted to,” Hellman said, which resulted in their arrest.

Not only did many of the student protesters face brutality at the hands of police officers, but participating faculty members did as well. Dr. Tony Robinson, the Chair of CU Denver’s Political Science Department, stumbled upon the protest and said, “Those were students I knew that were sitting down right there, and others that were in the circle. It called on me to have a more clear moral purpose and moral vision to stand with students that were kind of expecting or hoping that their faculty would stand with them too. I felt I morally had to do this.”

After linking arms with fellow colleagues and students, he began to notice a pattern: the police officers would walk around the circle, eyeing the protesters and picking them up off the ground, then choosing a link within the outer circle and “plowing through it,” which happened repeatedly.

One of these times, Dr. Robinson became a target of this police plow. “I locked eye contact with one of the cops that was in the front, we looked right at each other, and as he came by, looking right at me, I swear to God, I felt it. He goes, ‘bam!’ Threw his elbow right

into my face. My glasses flew off and a nose piece broke off, and then my nose started bleeding.”

Regardless of their peaceful approach to protest, many of the arrested students are still dealing with trespassing and failure to obey lawful police orders, as well as student conduct charges from the universities. Falconetti and Nelson’s charges are among the students whose charges have been dropped, but students like Lucia are still battling in the courts and with the institutions. Lucia commented that she is on permanent probation from CU Denver, which means if she breaks campus policy again, she faces much more severe consequences, including suspension or expulsion.

Among this sling of student arrests, a community of uproar erupted on the Auraria campus and the broader Denver-metro region. Some CU Denver Faculty, including Dr. Jim Walsh and Dr. Tony Robinson, released a statement to Chancellor Marks commenting on the unnecessarily violent police force towards a group of peaceful protesters on campus. Colorado State Representatives, Senators,

Denver City councilmembers, and a CU-Regent also released a statement in support of the student protesters following their arrests, writing that, “We call on the leaders of this campus to respect the First Amendment rights of all peaceful protesters and call off any and all police intervention.”

Despite this community opposition to the arrests on campus, the institutions held strong. The University of Colorado Board of Regents released a statement on May 16, stating that they supported the First Amendment rights of students, faculty, staff, and campus visitors, but that “Those who engage in expressive conduct are expected to comply with relevant laws, policies and conduct codes that are intended to create a safe learning environment. Consequences will be imposed as applicable for those who don’t comply with these laws, policies and conduct codes.” And pose consequences they did.

## **STUDENT FIRST AMENDMENT RIGHTS Implications for the Auraria Encampment and Future Student Protests**

Student free speech has historically been a powerful tool for demanding accountability and awareness from not only from fellow students, faculty, and university officials, but also from the world around them.

During the Cold War of the 1950's, student protests emerged on college campuses to protest anti-communist legislation and actions taken by their institutions against professors and students. Students for Democratic Society (SDS), a national organization dedicated to providing students with a platform for activism, emerged from these protests and is still a nationally acclaimed organization with chapters at universities across the country (Johnston 2015).

The Free Speech Movement of the 1960s, which began at the University of California Berkeley in 1964, was one of the most well known cases of student speech on college campuses, where students began to speak out against civil injustices during the civil rights movement of the time (Johnston 2015). Similarly, the United Mexican American Students (UMAS) grape boycott of 1968 was fueled by Chicano students who protested against working conditions for agricultural workers in Washington (Weiland 2013). In 1970, also on the University of Washington campus, a student strike saw about six thousand students walk off the campus in opposition to the US' involvement in Vietnam (Johnston 2015).

In the midst of these protests, perhaps the most defining case for students' First Amendment rights was decided by the Supreme Court after John F. Tinker and Christopher Eckhardt showed up to their small high school in rural Des Moines, Iowa with black armbands expressing opposition to the US' involvement in the Vietnam War. The school officials of Tinker and Eckhardt's school were well aware of their plans to wear black armbands as a form of protest, so they prematurely enforced a policy that any student wearing an armband at school would have to remove it, and if refused, the student would consequently be suspended. While aware of the policy, Tinker and Eckhardt appeared at school with black armbands nonetheless and spent the next few months in a back and forth battle between district and circuit courts until their case appeared before the 1969 Supreme Court in *Tinker v. Des Moines Independent*

## **Community School District.**

Justice Fortas delivered the unprecedented opinion of the court, concluding that students do not "shed their Constitutional rights to freedom of speech or expression at the schoolhouse gate" and recognizing students as "persons" under the Constitution. However, the Court also recognized limitations to these established rights specific to their positions as students, writing that students' expressive rights can be restricted if they "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school' and without colliding with the rights of others." While school officials still have the right to restrict speech under *Tinker*, they must show more than a desire to avoid unpleasant, uncomfortable, or minor arguments and disturbances that might occur with the expression of certain viewpoints or ideas (Dayton and Tarhan 2021). However, school officials can act without proof of actual disruption, just so long as there is evidence to suggest that the expressive activity would lead to a disruption (Dayton and Tarhan 2021).

The Supreme Court defense of *Tinker* and Eckhardt's politically charged black armbands has been used the past forty years to define student expressive rights as a subset of First Amendment rights. Only three years after the *Tinker* decision, students at Central Connecticut State College banded together to petition to form a local SDS chapter, but were denied recognition as a campus organization by the university's president. The university president considered SDS to have a philosophy of disruption and violence that was in conflict with the university's declaration of student rights. After being denied the right to organize as an SDS chapter, the students sued, while the District Court sided with Central Connecticut State College and the Court of Appeals affirming. The students took the case into their own hands and appealed to the Supreme Court, in the case of *Healy v. James* (1972).

Heavily citing *Tinker*, Justice Powell delivered the majority opinion of the court and ultimately sided with the student chapter of SDS, solidifying the right to association for students across the nation. The affirmation of *Tinker* in *Healy* works to provide joint protections for students in higher education (Dayton and Tarhan 2021).

Under these precedents, students attending public schools have free speech and assembly rights that are protected by the Constitution, but are subject to limitation if their expressive activity disrupts the educational environment around them, or if the state has a compelling interest such as public health or protection of public resources under reasonable “time, place, and manner” restrictions<sup>1</sup>. Student speech is also subject to restriction if their speech undermines core educational functions, as seen in *Hazelwood*<sup>2</sup>, or substantially disrupts school events with provocative speech, as seen in *Morse*<sup>3</sup>.

But as Auraria students joined in the nationwide movement of encampment protest, they entered a new realm of First Amendment territory: expressive or symbolic conduct, which are actions or behaviors that are meant to convey a message and isn’t always afforded the same protections as “pure speech.” Take *Tinker* for example: the students weren’t explicitly speaking out against the Vietnam War through the use of armbands. The armbands stood as symbolic conduct, not “pure speech,” because they alluded to the message without explicitly stating it. Similarly, the Auraria student protesters weren’t simply relying on banners or speeches to express their discontent with the university’s involvement with Israel: they used an encampment to express their message symbolically.

Historically, Supreme Court cases have aimed to decipher what type of conduct can be considered symbolic and protected speech under the First Amendment, and what type of expressive methods might be considered dangerous or disruptive and therefore, subject to suppression. This has established a need for balance between the government interest at stake and the nature of the expressive conduct: if the government interest outweighs the need for the expression, then that expression can be suppressed—especially if other means to express the message exist. Consider the government interest of park preservation vs. the expressive conduct of camping, for instance. In 1984, the Supreme Court had to consider such a balancing act in *Clark v. Community for Creative Non-Violence*.

Just as the Auraria protesters dug their tent poles into the grass of the Tivoli Quad, members of the activist organization Community for Creative Non-Violence (CCNV) applied for a permit from the National Park

Service (NPS) to conduct an encampment demonstration in Lafayette Park near the White House. Their demonstration would work to “illuminate the plight of the homeless” by having the activists sleep in tents throughout the park. The NPS granted CCNV a twenty four hour permit and permission to erect temporary structures, but denied them permission to actually sleep in the structures under the NPS’ no-camping policy. Sleeping in tents, according to the NPS, was deemed camping, and therefore was not permissible, but simply erecting the tents was allowed as a form of symbolic protest. CCNV appealed this decision to the courts, arguing that sleeping in tents was protected symbolic speech that was critical to getting their message across about the plight of the homeless.

The US Court of Appeals for the District of Columbia Circuit first heard the case, and found that sleeping was “so highly communicative within the context of the demonstration that it qualified as speech entitled to First Amendment protection.” They argued that the activists’ First Amendment rights outweighed the government’s interest in the non-camping regulation, therefore siding with CCNV. After the Court of Appeals decision, NPS appealed to the Supreme Court, where the Justices adopted the US Court of Appeals decision that sleeping constituted a symbolic form of protected speech, but also held that the no-camping regulation was a valid “time, place, and manner” restriction of speech in a public forum like Lafayette Park.

Under the *Spence* test,<sup>4</sup> Justice White cited that conduct such as encampment protest qualifies as speech because its message can be understood by those who view it, but should still be subject to restriction by government regulation, especially reasonable time, place, and manner restrictions to ensure public safety, convenience, and welfare. Using the ruling from *O’Brien*<sup>5</sup>, Justice White argued that the government’s regulation of speech can be justified if the kind of regulation is within the Constitutional power of the government, furthers a substantial government interest, and if that government interest is unrelated to the suppression of free expression. Justice White also clarified that the restriction on First Amendment rights must be no greater than necessary to further the government interest, stating that “the justification for regulation must be measured by the overall harm the regulation seeks to

prevent rather than by the harm that would result by exempting one particular group from the regulation.”

In this case, the Court found that the possible harm to park beauty and amenities, together with public health risks of a long-term encampment, outweighed the need of protestors to sleep in the park to convey their message, therefore allowing the NPS restriction on camping was allowed to stand. The Supreme Court also found that the NPS’ no-camping regulation was Constitutional because it was content neutral—it applied equally to all campers, demonstrators and non-demonstrators alike and was implemented without prejudice against any particular message. The NPS further provided demonstrators ample alternative channels of communication that could still reach their public audience. They held that the no-camping regulation was sufficiently narrow to support the government’s interest in alleviating the “wear and tear” on the parks.

The majority’s ruling ultimately held that while sleeping in tents as part of a demonstration to highlight homelessness could be considered symbolic speech, the NPS’ no-camping regulation was a valid restriction on that speech. In applying the time, place, and manner test, the Court found that NPS’ rule served a substantial government interest in preserving park resources and protecting public health, without specifically targeting the protestors’ message. Not only was the government interest substantial, but it was applied in a content-neutral way, so the NPS’ restriction on CCNV was a justified abrogation of First Amendment rights.

This precedent for camping as an expressive conduct poses limitations for protesters, especially in the wake of encampment protests this past spring. While the Auraria students’ free speech and expression rights are protected under the lines of *Tinker* and *Healy*, their use of encampment as a means of protest is now subject to the scrutiny outlined in *Clark*. Perhaps the most defining piece of *Clark* that applies to the Auraria encampment is the Supreme Court’s alliance with the Court of Appeals in deciding that overnight sleeping is expressive conduct that is “protected to some extent by the First Amendment.” However, *Clark* was not a unanimous decision. The dissenting opinions by Justice Marshall and Justice Brennan pointed out the discrepancies in allow-

ing the no-sleeping aspect of the NPS’ no-camping policy in order to protect park grounds, questioning how the “wear and tear” of the parks would be exacerbated if the demonstrators were granted the ability to sleep, considering that protestors were already granted a 24 hour permit to erect tents on the space. “...the Government offers no justification for applying its absolute ban on sleeping yet is willing to allow respondents to engage in activities—such as feigned sleeping—that is no less burdensome,” Justice Marshall wrote. In fact, the dissent argued that the restrictions on speech wasn’t driven by a desire to protect parkgrounds, but was a product of the natural bureaucratic tendency to over-regulate without actually advancing an important government purpose. The dissent also pointed to the historical and political relevance of Lafayette Park as a “site for some of the most rousing political demonstrations in the Nation’s history,” asserting that this context of a well established public forum should’ve been taken into account before limiting the demonstrator’s expressive freedoms.

The dissenting opinion further believes that the majority failed in successfully balancing government interest and expressive activity. Following a long line of case law, especially from the ruling in *O’Brien*, the Supreme Court’s balance between government interest and expressive activity has devised a two-tiered analysis based on whether the government restriction is content-neutral or content-based (Kirkpatrick and Sanders 1985). While the majority opinion in *Clark* found that the restriction on sleeping was content-neutral, the dissenters argue that this allowed them to apply lesser scrutiny to the case as a whole and resulted in less protection for sleeping as a means of expressive conduct (Kirkpatrick and Sanders 1985). Not only did the majority in *Clark* fail in this case, the dissenters argue, but they failed future expressive cases by solidifying a lower standard of scrutiny for speech that is restricted by content-neutral policies. Pointing to the negative implications of the majority’s decision, the dissent in *Clark* warns about the lack of scrutiny applied to cases where content-neutral restrictions interfere with expressive rights. The fears outlined by the dissenting opinion in *Clark* are evident when considering encampment protests since CCNV’s attempt. The Occupy Wall Street (OWS) movement of 2011 is perhaps the largest



attempt at an encampment protest in the US since Clark, where OWS demonstrators took to the streets of Manhattan to protest against rising economic inequality and corruption (Volle 2024). The OWS demonstrators, on a similar line with the CCNV protesters, expounded two First Amendment arguments: sleeping is symbolic expression that should be protected, especially because it took place on a public forum (Howard 2013). However, under the majority ruling in Clark, the OWS movement was ultimately shut down because they were in violation of content-neutral policies that served a narrowly tailored government interest, as well as had alternate channels of communication to distribute their message (Howard 2013). Like the dissenters in Clark suggest, the focus on the content-neutral policy rather than the expressive conduct that it restricts resulted in the complete constraint of the OWS movement.

The precedent set in Clark that defines and limits encampment protest as expressive conduct can be directly applied to the analysis of the Auraria encampment protests this past spring. While the Auraria students' free speech and expression rights are protected under the lines of Tinker and Healy, their use of encampment as a means of protest is subject to the scrutiny outlined in Clark. Even with the majority opinion in Clark establishing that overnight sleeping can be considered expressive conduct that is "protected by some extent by the First Amendment," it also defined a pathway by which public authorities can limit that expressive conduct as long as their restrictions advance an important government purpose, are content-neutral, and allow for alternative means for expressing the intended message.

The dissenting opinion in Clark raises questions about the natural bureaucratic tendency to over regulate and articulates the importance of allowing protesters a wide latitude for symbolic speech on public grounds. But what happens when these public grounds are public school grounds, and when the protesters are students?

### **THE FIRST AMENDMENT ON THE AURARIA CAMPUS**

When considering student expressive rights on college campuses, a certain list of factors must be evaluated based on the precedent set in a vast his-

tory of relevant case law that includes both student speech cases and expressive conduct cases. Among these factors, students' right to speech on school grounds must first be defined, as it lays the foundation for any further discussion of how those rights can be expressed and how they can be limited.

Assuming that students are found to possess free speech rights, a governing body must justify any restriction of that speech on campus by advancing an important state purpose, such as by showing that the speech was disruptive to the normal functions of the school. While all protests are a disruption, school authorities must establish that this particular disruption prevents students and faculty from attending the school or completing school activities in the way that they normally would. The governing body would then have to prove that their restrictions on speech are unrelated to content and narrowly tailored, which means the government uses the least restrictive means in order to suppress speech. The regulation on speech must also leave ample alternative means for communicating the message.

### **DO AURARIA STUDENTS HAVE FREE SPEECH RIGHTS?**

As we've established in Tinker, neither "students or teachers shed their Constitutional rights to freedom of speech or expression at the schoolhouse gate." But before applying this framework to the encampment protests, it is first important to establish how student First Amendment rights on a university campus differ from other Americans' First Amendment rights in public forums not located on a college campus.

Student's First Amendment rights are largely shaped by the institution that they're enrolled in, which typically require students to sign and agree to a student code of conduct and can explicitly limit their free speech rights. Because public institutions are funded by state and federal government money, their students have more freedom to exercise their First Amendment rights than students at private institutions, which are privately funded. However, students at both public and private institutions must follow the student code of conduct or other policies set in place by the institution, which may limit student speech rights more seriously than is allowed against a

non-student speaker in a public forum like a city park. While students at public institutions have more freedom to exercise their First Amendment rights than students at private institutions, public institutions are still allowed to set time, place, and manner restrictions on the student speech, especially if it's in violation of preexisting campus rules or codes of conduct. These restrictions must also be applied reasonably and neutrally at any public school without discriminating against any particular groups or viewpoints.

The Auraria campus is a public campus, governed by the Auraria Higher Education Center (AHEC), but is funded by state and government financial sources. AHEC rents the buildings on campus to the three public institutions that comprise the campus: the University of Colorado Denver, Metropolitan State University (MSU), and the Community College of Denver (CCD)<sup>6</sup>.

As a public campus, AHEC is dedicated to upholding the Constitutional rights of students and faculty, such as the First Amendment right to free speech and expression, states Professor Omar Swartz, a professor at CU Denver and the coordinator of CU Denver's law studies minor. In accordance with upholding Constitutional rights, AHEC, like many other public institutions across the country, has a designated limited public forum, a space that is open to protest but also subject to time, place, and manner restrictions. This limited public forum exists on the Tivoli Quad, which is a central campus grass lawn that as of 2023, was designated by AHEC's "Peaceful Assembly on Campus" document as an area for assembly where protesters still must abide by AHEC policies. The document defines assembly as "meetings, speeches, debates, demonstrations, marches, vigils, rallies, protests, and similar meetings or gatherings," which is somewhat vague in that it fails to address encampment as a means of protest. According to a poll by the Foundation for Individual Rights and Freedoms (FIRE) that included 30 college campuses across the country in 2024, 36% of students were unsure if encampment protests were allowed on their campuses, which is evident when considering the wording in no-camping policies such as AHEC's.

The dissent in *Clark* would argue that because the

Auraria encampment involved speech on a matter of high importance, and was located on a public forum that had been subject to years of protest before this one, the protections of the First Amendment should extend to it. In fact, the atmosphere of college campuses is unique in comparison to other public forums, as the discourse and debate that fuels protest is an integral part of university teachings. Students' educational experiences are largely expanded by the possibility of protest on campus grounds, as "the positive impact that participation in protest can have on students' personal growth and development is equal to, if not more important than, the cause itself" (Weiland 2013). The majority opinion in *Healy* also articulates the unique importance of college campuses to upholding the principles of the First Amendment, with Justice Powell writing that, "The college classroom, with its surrounding environs, is peculiarly the 'marketplace of ideas,' and we break no new constitutional ground in reaffirming this Nation's dedication to safeguarding academic freedom." This unique breeding ground for protest that college campuses provide to students must be taken into account when evaluating protection for student expression.

### **DID THE ENCAMPMENT DISRUPT THE NORMAL EDUCATION ENVIRONMENT OF THE AURARIA CAMPUS?**

Under *Tinker*, students have the right to free speech and expression if that speech and expression doesn't "materially" or "substantially" interfere with the school's ability to carry out its necessary functions. If *Tinker* is applied to college students rather than K-12 environments, what must institutions have to prove in order to stifle student expression?

First, the institution must prove whether or not the student speech is related to the school curriculum, as it then might affect the foundational messages of the school itself and would be subject to restriction (Goldman 2011). In the case of the Auraria protesters, their message was a controversial one that encompassed international affairs, and "would be the most problematic" in silencing because of its highly public nature and its deviance from the foundational messages of the institutions themselves (Goldman 2011). Under *Tinker*, the Auraria students' speech was not a "substantial disruption" to

the foundational message of the institution because it regarded matters far beyond the classroom walls.

The location of the student speech is also integral to determining whether or not it's a "substantial disruption" under *Tinker* (Goldman 2011). The Auraria protesters did not interfere with classrooms nor assemblies and instead held their expressive activity on a public forum, which under *Tinker*, may not be considered suspect (Goldman 2011). However, multiple school-sponsored events were canceled due to the Auraria encampment protest, including a 5K race dedicated to raising funds for pancreatic cancer, the awards ceremony for RACAS, the Research and Creative Activities Symposium, and a Graduate of the Decade award ceremony. CCD also moved their classes online during the beginning of the encampment, but the other two institutions on campus did not. School officials cited the encampment's presence as the reason for canceling events, but no clear evidence supports this. In fact, the Quad had ample space for the 5K, and the canceled indoor events were unaffected, which raises doubts about the officials' true motives. However, even if the events aren't central to the campus' educational mission, AHEC's "Peaceful Assembly on Campus" document clearly forbids any public forum from disrupting other scheduled and permitted campus activities. Within the document, it states that the Tivoli Quad is available as a public forum, so long as "the activity does not unreasonably interfere with a pre-existing reservation or planned use of the location."

This document also states that activities on the Tivoli Quad cannot "impede vehicular or pedestrian traffic," which many students and faculty members would argue was never a problem with the Auraria encampment. The encampment stayed on the grass area of the Tivoli Quad for its entirety, which has ample sidewalks for those on campus to utilize so they can walk around the grass.

Not only did the encampment leave room for other campus events, but it did not interfere with the rights of other students because it still allowed them to attend class and other necessary aspects of their school schedules (Goldman 2011). However, school officials, students, or faculty who felt trapped by the encampment's presence on campus might argue that they were being held "captive to unwanted speech" because of

the encampment's permanency compared to other forms of protest (Goldman 2011). Nonetheless, this would be a difficult argument to pursue because there are many ways to avoid the Tivoli Quad on campus and still have access to nearby classrooms and offices.

### **DID AHEC HAVE A COMPELLING INTEREST IN RESTRICTING THE ENCAMPMENT PROTEST ON CAMPUS?**

In *Clark*, the majority court established that the NPS had a compelling state interest in preserving the health, safety, and beauty of Lafayette Park, which consequently allowed them to limit CCNV's symbolic speech of sleeping in the park.

In a statement released on April 26, former Chancellor Michelle Marks similarly wrote to students in a mass email, stating that, "On-campus camping is a violation of Auraria Higher Education Center (AHEC) policy that poses health, safety, and security concerns for both the demonstrators and those who provide support and assistance," thus highlighting AHEC's compelling interest in removing the encampment protesters in order to preserve the health, safety, and security of campus.

### **HEALTH**

With any prolonged encampment site comes the threat to public health, whether it be a build-up of trash, inclusion of unhoused individuals, food contamination, spread of disease, or lack of waste removal resources. In an article for the *Denver Gazette*, Devra Ashby, the Director of Marketing and Communications for AHEC, commented that there was "observed use of drug paraphernalia" between the protesters and homeless people who had joined the encampment. Ashby also told the *Denver Gazette* that she had received complaints about "feces on the quad," trash, and people who were not students that had joined in the encampment. Based on this information, AHEC would have a compelling interest in protecting the public health of their campus. But to the students present at the encampment, this doesn't seem to be the case.

According to Paul Nelson, not only were the Auraria protesters peaceful, but they were clean and organized as well. He claims that the protesters had strict policies when it came to the cooking and dis-

tribution of food, always making sure to dispose of food products that had gone bad or were left out too long. The protesters used designated porta-potties for bathroom needs, and also had access to classroom bathrooms during the day. Nelson also suggests that the encampment was more ADA compliant than some of the facilities on campus as the tents were easily accessible to participants with disabilities.

Contrary to Ashby's statement, there was also nothing illegal about non-students joining in on the protests. In fact, AHEC's "Peaceful Assembly on Campus" document doesn't mention the prohibition of non-students assembling on the Quad. The dissent in Clark similarly discusses the "unpersuasive" argument of the threat of non-protesters joining in with protesters, which the majority commented on in their ruling. Discerning between protesters and non-protesters is something that the government already has to do, said the dissent, and so "a mere apprehension of difficulties should not be enough to overcome the right to free expression," as doing so would be overbroad.

## SAFETY/SECURITY

The encampment protest was considered by many students, faculty members, and community members to be peaceful, until it was deemed a "civil unrest" by AHEC announcements on April 26 when the DPD and ACPD arrived on scene. The connotative implications of "civil unrest" suggested to the entirety of campus that the protesters were posing a threat to their safety and security, while in actuality, the protesters remained peaceful until the introduction of the police on April 26. Many students, either members of SDS, bystanders, or in the classrooms, have argued that the presence of police posed a greater danger to the entirety of campus—especially to students of color who have been historically targeted by police forces—than the encampment itself. If AHEC was acting with the intention to preserve the safety and security of students on campus, why would they introduce police to the situation knowing how violent it could get, they ask? As Hatem Trielbar, a student at CU Denver and a member of SDS who was present at the encampment, commented, "A lot of this brutality is unnecessary. They say they are bringing order, but they are the unrest."

Another concern regarding the threat to the safety

and security of the campus arose from the message of the protest itself. Discussions of anti-semitism have been linked to the pro-Palestine protesters even before their encampment efforts, but intensified during. Many of the students interviewed, as well as students on campus who have discussed the encampment in class, have denied claims of anti-semitism arising from their protests. Even a Jewish Voices for Peace flag rested visibly outside of a tent at the encampment, demonstrating that some Jewish voices were in support of the pro-Palestine protesters' efforts on campus.

As one of the encampment protesters, Nelson argues that protestor's chants and speeches are meant to target Zionists, not Jewish communities, as Zionists are a specific political and religious movement that wants to create a Jewish state in Palestine by entirely cleansing Palestinian Arabs from the area. Criticizing such Zionists is not at all a form of hateful anti-semitism, according to Nelson.

But does AHEC have a compelling interest in preventing speech that could be viewed as hate speech against Jewish or Zionist students? Because under *Tinker*, academic communities are "special environments" where "First Amendment rights must be analyzed 'in light of the special characteristics of the school environment,'" the restriction of hate speech on college campuses becomes complicated (Kaplin 1992). There are important major free speech principles that constrain the general authority of universities to regulate hate speech: regulations of content are highly suspect, so the compelling government interest would have to be significant in the eyes of the law (Kaplin 1992). Emotional and cognitive content of speech are also protected<sup>7</sup>, and just because some people who view or hear the speech are offended by the message, does not mean the speech as a whole can be prohibited (Kaplin 1992). As with any government intervention on speech, government forces cannot force regulations that are overbroad or vague—such as by forbidding any critique of Zionism—in an effort to stifle hate speech because it would create a chilling effect on future speech (Kaplin 1992).

Perhaps the most relevant factor regarding the restriction of hate speech on college campuses is that just because some people view or hear the speech as offensive, doesn't mean the speech as a whole can be



restricted. This is evident when considering the usage of pro-Palestine chants used during the encampment, especially the uses of the terms “Intifada” and “from the river to the sea” that evoke anti-semitism claims by some people who feel these are hateful attacks on all Israeli Jews. AP News, for example, defines “from the river to the sea” as a call for peace and equality for Palestine, even though the chant has also been used by some extremist groups, including Hamas, to call for a single state between Israel and Palestine, with Palestinians taking over Israeli land (Kellman 2023).

While many of the student protesters would argue that these terms are explicitly used to oppose Israel’s policies and Zionist goals, rather than criticizing Jewish communities as a whole, there is still a question of who might experience this speech as hate speech, but such vague concerns over phrases that have multiple meanings hardly provides evidence for AHEC to use to characterize an entire encampment as perpetuating hate speech.

### **WAS AHEC’S RESTRICTION OF SPEECH CONTENT NEUTRAL AND NARROWLY TAILORED?**

Similarly to the NPS in Clark, AHEC has a no-camping policy that applies to all individuals on campus grounds, which the student encampment violated last April. This policy states that “campus shall not be used for camping, regardless of the duration or purpose” and defines camping as “the use of Auraria Campus facilities or grounds for living accommodations or housing purposes, such as overnight sleeping or making preparations for overnight sleeping (including the laying down of bedding for the purpose of sleeping), the making of any fire for cooking, lighting or warmth, or the erection or use of tents, motor vehicles, or other structures for living or shelter.” AHEC’s no-camping policy on its own is content neutral and narrowly tailored because of its equal application to all camping establishments, regardless of message. But the dissenting opinion in Clark asserts that NPS’ no-camping policy was “strikingly underinclusive,” as they provided no evidence as to how the ban on sleeping is less burdensome than allowing protests via tents. Under this line of reasoning, AHEC’s no-camping policy could also be considered to be “underinclusive,” as

it still allows for other demonstrations on campus to take place—including overnight installations—if there’s no evidence of using them for housing.

The dissenters in Clark also argue that the message of these encampment protests should be considered in cases such as these, especially when the message is politically charged and delivered on a traditional public forum where onlookers could easily understand the correlation between sleeping and the encampment’s message. Similarly, bystanders on the Auraria campus could view the protesters living in tents, paired with the array of Palestinian flags, as an act to symbolize Palestinian displacement at the hands of the US-backed Israeli government.

Not only is the act of sleeping in the encampment a politically charged message, but the use of tents is in itself one. Camping in tents has historical associations with “military installations, colonization, the displacement of refugees, and the experience of homelessness” which designates camping as a highly politicized form of conduct (Keel 2022). The word “camping” also shares an etymological root with “campaign,” which suggests deep political significance with the inherently public act (Keel 2022). The political nature of citizenship also arises from the use of tents in protest, as “to assert a claim over public space, even temporarily, is to assert a claim to citizenship and belonging—a rightful occupation of that which belongs to all Americans,” Keel writes (2002).

Restrictions on political speech receive the highest level of scrutiny from the courts, meaning the compelling government interest in restricting political speech must be significant. While speech such as the Auraria and CCNV protesters’ was highly political, the dissenters in Clark argue that it received lesser scrutiny from the courts because it was restricted by a content-neutral policy (Kirkpatrick and Sanders 1985). Justice Marshall expressed his concerns with the court lowering scrutiny because of their failure to identify how even content-neutral policies can unnecessarily restrict expressive speech (Kirkpatrick and Sanders 1985). Clark’s precedent ultimately limits the protections for protesters such as those at the Auraria encampment by lowering the scrutiny towards political speech that interferes with content-neutral policy.

Restrictions on students' political speech also generates a fear of totalitarianism because it limits one of the "core" protections of the First Amendment (Goldman 2011). When politicized speech is restricted, it undermines the political institutions from which it is built upon and suggests that the value of political speech is less than it actually is (Goldman 2011). The restriction of political messages poses a threat to the sanctity of the First Amendment, as well as to the growth and development of students who are blossoming into politically active members of society.

Not only was the Auraria encampment political speech, but it was also critical speech towards the institution itself, which is what the First Amendment was created to protect the early American colonials from facing prosecution for denouncing the King of England. Under *Tinker*, student speech that is critical of the institution should receive more protection because school officials would no longer be acting for the greater interest of the campus, but rather in protecting the image of the institution and themselves. The mere criticism of institutions is not a "substantial disruption" under *Tinker* and suggests that less deference should be given to school officials when they aim to restrict this particular type of speech (Goldman 2011).

Under the dissent in *Clark*, the political content and methods of the protesters' expression should be taken into consideration by AHEC and the more supreme governing bodies that dictate the breadth of First Amendment rights under the Constitution. But these are not the only factors for the courts to consider: the origins of the no-camping policy itself could be considered suspect, and not content neutral nor narrowly tailored.

Amidst the Iraq War of the early 2000s, students on the Auraria campus acted similarly to the pro-Palestine protest of April 2024 and staked down tents in opposition to the institutions' involvement in funding the war. Z Williams, a legal adviser to the students at the encampment protest in April 2024 and a member of Bread & Roses, a nonprofit social justice legal center, was also present during the encampment protest in 2002.

"We held camp in the middle of campus for three weeks. This camp was a fraction of what we see today. It was maybe 10 tents or so," says Z. "Even-

tually, Auraria informed us that we needed to move and the camp would be cleared because of an upcoming festival. We were so exhausted at this point. We had been organizing nonstop and we couldn't keep it up plus keep organizing marches, rallies, and other events. During the [following] academic year, AHEC passed the [no camping] policy being enforced against students now." As Z suggests, AHEC's no-camping policy was put into place in May of 2004.

Though the origins of this anti-camping policy as a direct response to the Iraq War protests may be suspect as not being content neutral, the general idea of restrictions against camping on campus space is hardly unusual. Like any public, government funded institution, AHEC's anti-camping policy is nothing new—nor is it unreasonable, says Professor Swartz.

Azra Taslimi, an attorney at Rathod | Mohamedbhai LLC who has been representing many of the students and faculty who were arrested at the encampment in April, agrees with this component of AHEC's anti-camping policy, arguing that, "The whole camping ban policy has served a very specific purpose, and it wasn't to limit protests. It was to prevent people from camping out on the quad and using the quad as a place to live." But she questions the definition of the term "camping" and how institutions and law enforcement officials can distinguish between "camping" as commonly understood and "camping" as expressive speech.

Following the series of events that lead to the students' arrests on April 26, it's very unclear if the AHEC officials called in police in response to the dangers of the actual camping or because of the politically charged protest itself. Taslimi argues that campus officials and law enforcement did not even know that the students were going to be using the tents as "housing" for the next few weeks, which would be in violation of AHEC's anti-camping policy. Rather, campus officials were initially responding to the message of the protest itself, especially in a politically charged atmosphere where Palestine vs. Israel debates entered many political and academic spaces.

In fact, it was only after the first arrests were made on April 26 that the students then began to use the tents as housing, as defined by AHEC. It's also rele-

vant to note that on April 26 before their arrests, the protesters began taking down their tents as the law enforcement presence on the Quad grew, until all that remained before the arrests was a group of students, faculty members, and community members sitting or standing and linking arms, without any erected tents.

“The violation is gone,” says Taslimi about this key fact of the timeline of arrests on April 26. “And so now the only assumption left is that you’re arresting people for protesting or engaging in First Amendment protected conduct.”

Along Taslimi’s line of reasoning, once the tents were taken down from the Tivoli Quad, the protesters were no longer violating campus policy, so why were they still arrested? Anne Marie Tamburro, the head of the Student Press Freedom Initiative (SPFI) at the Foundation for Individual Rights and Liberties (FIRE), notes that this kind of police action wasn’t unique to the Auraria campus, but was evident across the country as higher education institutions were dealing with large scale protests and encampments. Officials struggled to differentiate between students who were violating school policy by sleeping or camping on campus and students who weren’t violating policies, but were merely speaking out at protest events. The bottom line, she suggests, is that, “Administrators need to be more careful in regards to how they’re responding to these situations.... They want to ensure students are keeping in line with institutional policy and making sure campus is safe and accessible to anybody who needs or wants to be there. But they also have the duty as the enforcer of these policies to ensure that they are enforcing them properly and thoughtfully and even handedly... not lumping everybody in together.” Based on the number of student charges that are being dropped after the Auraria arrests, it seems likely that the students who were arrested were in fact “lumped together” as Tamburro concludes. In fact, according to a poll by the Foundation for Individual Rights and Freedoms (FIRE), at least one in ten students across the country were disciplined because of their participation in pro-Palestine protests, including encampment.

Tamburro also thinks that the arrests of students after the encampment was taken down presents Due Process concerns. The Due Process Clause of the Fourteenth Amendment provides procedural protections,

such as notice and a hearing before termination of entitlements, says the National Constitution Center. It forces the government to follow certain procedures before it deprives an individual of life, liberty, or property, and is a fundamental liberty right that is accessible to all citizens of the US, including students.

The Due Process concern that Tamburro speculates on is shared by Taslimi as well, as she argues that many students who were arrested were not clear about why they were being asked to leave. Many students, Taslimi suggests, thought they were being asked to leave because they were protesting, not because the reason for their arrests was because they were violating AHEC’s anti-camping policy.

“Institutions have been dropping the ball on holding up their side of the deal here with regard to ensuring students Due Process rights are protected,” says Tamburro.

The Denver Police Department also commented on the illegality of their arrests made on April 26. According to The Denver Post, DPD Police Chief Ron Thomas said there was “no legal way” for officers to continue to dismantle the encampment, and he blamed university officials for allowing the encampment to continue after the arrests were made (Bradbury 2024). Chief Thomas also commented that his team would not continue to make arrests “unless they truly do something that creates an unlawful assembly,” which points to the encampment’s legal standing on campus that was restricted by AHEC policy (Bradbury 2024).

### **DID AHEC’S RESTRICTION ALLOW FOR AMPLE ALTERNATIVE CHANNELS OF COMMUNICATION?**

The purpose of the encampment protest, both in Clark and on the Auraria campus, was to use camping itself as means to draw attention to related conditions like homelessness and the Palestinian displacement situation. In Clark, the protesters famously used tents to communicate their opposition to anti-homeless legislation, and public camping was directly tied to expressing a message about homelessness itself. At the Auraria encampment, students believed that using tents as housing had a direct correlation to the ongoing violence and Palestinian displacement in Gaza that they were opposing.

“Tents are the face of current day pro-Palestine protests,” says Taslimi. “They are the face of this movement.” The dissenters in Clark agree, writing that “By using sleep as an integral part of their mode of protest, responders ‘can express with their bodies the poignancy of their plight.’”

Tents are also necessary in delivering a message on a wider, more powerful scale. “For individuals or groups who feel politically disenfranchised or inadequately represented, encampments have served as a means of challenging prevailing power dynamics; by placing themselves in close proximity to literal and symbolic power, demonstrators gain access to power that is typically inaccessible to them,” writes Keel regarding the importance of encampment protest beyond its explicit message (2022).

While these lines of reasoning are essential in understanding encampment as a means of speech, the Auraria protesters would not only have to prove this correlation between the encampment and proximity to power in court, but would have to prove that they wouldn’t be able to reach their intended audience with a different form of protest, absent tents and a public encampment. If they could prove this point, they may be able to establish that ample alternative forms of communication simply were not available to them.

However, this may be a difficult argument to win, as it relies on arguing that the physical disruption of encampment is necessary to getting one’s message across. But courts have not been very favorable to this defense of physical disruption over the years, whether considering the ruling in Clark or the Occupy Wall Street protests of 2011-2012.

“You can be intellectually disruptive, but not physically,” says Professor Swartz in regards to the campus policy that the encampment violated. Professor Swartz argues that physical disruption “is a strong argument from the point of view of social movement theory, but it’s a laughable argument in a legal context,” which is evident considering the history of court opinions regarding encampment protest.

Regardless of prior court precedent denying the connection between an encampment protest and the

effectiveness of its message, some of the student protesters arrested on the Auraria campus have considered filing suit against the City of Denver on the basis of being denied ample alternative channels for communication.

Winning any such suit would require courts to pick up on the dissenting logic in Clark, which points to how encampment protests should be protected against no-camping policies because of how the use of sleeping in tents advances their political message. Overturning Clark along these dissent lines would allow encampment protests such as these to continue spreading their highly organized political messages on a scale that is larger and oftentimes more impactful than other forms of protest. Without such a change in legal thinking, it is unlikely that the Auraria protesters or encampments nationwide could win an argument that they were denied effective, alternative means to convey their message.

Revisiting Clark would also ensure that future expressive activity, whether it was restricted by content-neutral or content-based government restriction, would receive strict scrutiny from the courts (Kirkpatrick and Sanders 1985). In applying strict scrutiny to all expressive activity that is limited by content-neutral restrictions, speakers like the Auraria protesters would be given more opportunities for First Amendment protections.

## THE CHILLING EFFECTS ON STUDENT SPEECH

As of now, many of the students who were arrested at the Auraria encampment have seen their charges dropped by the City of Denver and by their universities because of the lack of evidence that justifies their arrests. This is a sigh of relief for the students, who would’ve dealt with the repercussions of the arrests on their records for the years to come. But some students recognize that their rights have been violated to some degree and they want to take action. So the onslaught of dropped cases doesn’t mean that a First Amendment challenge to these kinds of arrests will never arise in court—it’s just a matter of when.

Taslimi states that as of now, most of the trials are occurring in county courts that are not “all that sav-



vy on Constitutional law.” The attorneys representing the arrested individuals have filed motions to dismiss on grounds that these protesters were engaged in protected conduct, says Talimi, but most of these motions have been denied, meaning the court hasn’t found sufficient reasons or legal basis to dismiss the charges.

In response to the court’s denial of First Amendment motions, Taslimi says, “We absolutely can talk about the First Amendment, because it is a right that attaches to every individual. And if the First Amendment is a defense to these defendants, then that’s something they should be able to talk about.”

According to Taslimi, one way for these cases to become First Amendment cases is if the juries present on the trials nullify the charges, meaning the jury would have to return a verdict of “not guilty” even if they believe the defendant is guilty of breaking the law. This can happen if the jury believes that the law is unjust, the punishment is too harsh, or the law is outdated (Legal Information Institute 2022). Whether or not the arrested protesters’ trials become First Amendment cases in the months to come, one thing is for certain: the arrests made on April 26 must be discussed in both the public and legal fields in order to set a strong precedent for student expressive rights as national and international debates continue to erupt over the campuses of educational institutions.

“You can’t come in and shut down First Amendment rights of every single individual because some people are not compliant and are in violation of some policies,” says Taslimi.

Both Taslimi and Tamburro can agree: AHEC, along with the dozens of other governing university bodies who prosecuted students that participated in campus protests, have failed to protect the free speech rights of their students. Not only did the universities fail in handling the encampment protest on the Auraria campus in the spring of 2024, but they continue to face criticism in the fall of 2024 over their most recent decisions regarding the student protesters’ expressive rights. This fall semester has brought new challenges to the student protesters, especially SDS. As of last month, SDS was suspended by CU Denver’s Student Life and Campus Community Office and MSU’s

Center for Multicultural Engagement and Inclusion Center, meaning the organization is no longer officially recognized as a student organization on the Auraria campus. This means that SDS can’t hold meetings in university affiliated buildings, can’t promote their events with flyers on campus, and as of most recently, couldn’t hold the previously scheduled fall 2024 National SDS Convention on the Auraria campus, which ended up being held at two different venues in the Denver area instead.

“Whether we’re a registered organization or not, we’re going to continue to organize. And you know, students exercising free speech on campus should be allowed, regardless of if it’s with a registered organization or not,” said Lucia Feast at an SDS protest for Palestine on Oct. 7, the anniversary of the Hamas attack in Israel. This was one of the first and definitely the largest SDS protests on the Auraria campus since the encampment in late April.

Not only has SDS faced consequences, but other organizations across Colorado have as well. According to The Daily Camera, a Boulder-based news outlet, Boulder Students for Justice in Palestine (SJP) was placed in “bad standing” by CU Boulder because of university policy violations (Doak 2024). Similarly to SDS, SJP is no longer recognized as a student organization, which substantially limits their ability to communicate and organize with students on campus.

These suspensions are eerily similar to the events that occurred in *Healy v. James*. While SDS and SJP caused disruption to their surrounding campuses through their expressive activity, the integrity of their organizations are still being stifled to the point where their expressive rights are also being restricted, which questions if these consequences are justifiable under *Healy* and the First Amendment.

## CONCLUSION

Harriet Falconetti’s mugshot now rests on her desk at The Sentry student newspaper office in the Tivoli, a testament to the lengths that she went to in the name of Palestine and free speech. A badge of honor, she calls it, despite the fear and hardship that she endured from being arrested on April 26. Students like Falconetti are proud to have taken part

in the historic feat of protest that took place on the Auraria campus, just as many students and faculty admire the bravery and resilience that these students showed every morning when they zipped open their tents, and every night when they closed them back up with no warning of what was to come.

The grass has now grown back on the Tivoli Quad, but students and faculty will never forget the events that transpired on April 26. The Auraria encampment will be a historic reminder to the power of student voices on campus, as well as a cue to reevaluate the laws in which we find our speech limited by.

In the wake of nationwide encampment protest demonstrations like the one on the Auraria campus give a new necessity to rethinking the majority opinion in *Clark*. Educational environments, as the Supreme Court has defined throughout history, are unique atmospheres of opportunity, debate, and deformation that fosters the growth of students into independently minded adults. These special characteristics must be taken into account as new forms of expressive activity make their way onto campuses across the country. For students, encampment protest is not only a means of expressing ideas, but an impressive and impactful way of entering the realm of real-world political activism.

Revisiting *Clark*, and perhaps overturning it, would not result in absolute anarchy on public forums, but would rather give greater protections for politically charged expressive activity in politically charged atmospheres as the dissenters intended. The balancing act between government interest and expressive activity rights must be reevaluated when it comes to encampment protest that's limited by content-neutral policies so that it receives higher scrutiny like other forms of protected political speech. Just as the First Amendment was intended to protect, political protest, in all its many forms, can't be simplified to simple "yes" or "no" standards of acceptability. Instead, the law must become living so that protesters' speech is evaluated based on the world in which it exists and not always the precedent in which it is limited by.

The Auraria encampment has left an indelible mark not only on the campus but also on the broader conversation about the evolving nature of political protest in educational settings. Encampment protests are

not merely disruptive acts; they are deliberate efforts to challenge the status quo and inspire societal reflection. By embracing the dynamic and transformative potential of such protests, institutions and courts alike can honor the spirit of the First Amendment, ensuring that student voices are not only heard but valued as integral to the democratic process.

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- Layne Hellman | Undergraduate student at CU Denver and member of SDS
- Keegan | Student at CCD
- Paul Nelson | Former student at MSU and member of SDS
- Dr. Tony Robinson | Chair of CU Denver's Political Science Department

Omar Swartz | Professor at CU Denver and the coordinator of CU Denver's law studies minor

Anne Marie Tamburro | Head of the Student Press Freedom Initiative (SPFI) at the Foundation for Individual Rights and Liberties (FIRE)

Azra Taslimi | Attorney at Rathod | Mohamedbhai LLC

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## Book Review by Rawan Salah

### *The Crusade for Justice: Reflections on the Unending*

*"Not everything that is faced can be changed, but nothing can be changed until it is faced." (James Baldwin, 1962).*



Ernesto B. Vigil's *The Crusade for Justice* depicts a comprehensive account of the Chicano movement in Colorado. This book highlights Rodolfo "Corky" Gonzales's determination to face systemic discrimination against the Chicano community in hopes of bringing about positive change. Vigil's book recounts the historical struggles faced by the Chicano community, and calls attention to the ongoing struggles of racial injustice. It indicates that the world is preoccupied with its current conflicts and concerns, thus many stories and tragedies go untold or are forgotten. We frequently repeat the same mistakes that persist in shaping our current conflicts and issues due to a failure to understand history.

Vigil's representation of the Chicano movement emphasizes the importance of the intersection of cultural identity and political activism. The history of America is a story of conquest. Ever since settlers set foot in America, they asserted that their race was superior to all others, claiming that any other race was inferior in every way, including differences in religion, cultural practices, physical characteristics, and more. This superiority complex, developed into manifestations (such as the Casta System) used to differentiate races and racial combinations and promoted a need to assimilate to European culture. America had profound developments following colonization, yet the idea that the White race was the superior race remained.

One of Gonzales' core points was the importance of cultural identity: "One prime interest of the [steering] committee, to make the changes while preserving cultural ties and values..." (Vigil 60). The Chicano community had been conditioned to feel self-hatred and believe their cultural identity was inferior. The idea of preserving cultural values and having pride was rev-



olutionary because of this culture of self-doubt, and they had been taught to hate themselves for so long.

This detail stood out to me because racial activism, which aims to amplify voices, benefits from including cultural identity to share facts rather than stereotypes. It is vital to include cultural identity as part of political activism. The blatant corruption within the police force as well as the FBI challenged me as I continued to read the book. I couldn't understand how individuals who were obligated to uphold justice could commit such unthinkable acts without a second thought.

In *The Crusade for Justice*, Vigil describes the scandal of off-duty officers committing a burglary. These off-duty officers were pulled over by cops due to suspicious activity. However, when the off-duty officers showed their police badges, they were allowed to go free. When this scandal was revealed, there were significant repercussions, "Fifty-three members of the Denver police department were suspended from duty, with 30 confessing to their crimes or being found guilty in court" (Vigil 13). This prompted me to reflect on the corruption within law force, how much may be covered up, and the double standards between the law force and people of color. Vigil describes multiple accounts of how people of color were often abused by police for much lesser "crimes", and were used as scapegoats by the law to blame them for crime.

This is reminiscent of current situations where people of color are often used as scapegoats to push an agenda. For instance, immigrants from Central and South America are often blamed for crime rates as well as economic issues. This pushes the agenda for restrictions on immigration. Another example took place in Europe, where three young girls were tragically killed.

When the race of the perpetrator was revealed, it fueled some individuals to commit heinous acts of racism: attacking people of color on the streets, destroying private property, and targeting mosques (despite the perpetrator not being Muslim). As highlighted in *The Crusade for Justice*, scapegoating can be an effective way to demonize a group and create blame for problems such as economic issues and crime rates. In the book, the idea of education being essential in developing the Chicano community truly resonated

with me, as I also struggled with education as someone who wasn't able to speak English and was Black. When I began my education, I hated it because I couldn't understand anything. Although I was put in ESL classes, I still felt that I was looked down on because of my language as well as being Black. Nothing was ever explicitly said or done, but I could tell based on how teachers interacted with other students and those who were people of color. Other students could participate in academic-based activities, while a lot of those who were people of color were dismissed as rowdy and troublemakers. For these reasons, I sympathized with educators' demands for "the hiring of more Spanish-surnamed teachers" (Vigil 106). Not only would this give more opportunities for Chicanos, but it would allow Chicano students to feel represented.

The strongest weapon for racism is dehumanization. The atrocities I've read about such as the instance when, "a young Chicano...his clothes bloodied and in disarray...He said the policeman became angry, beat him, and then took him into the police building, where he was beaten further" (Vigil 119), I have wondered how could people do this without feeling even a semblance of guilt? Dehumanization. It's a powerful tool that allows those who are prejudiced not to think twice because to them those people are so inferior that they're not even human.

Today, dehumanization is most prominent in times of conflict because it reduces moral turmoil and empathy to facilitate violence against a certain group. We witnessed this during the BLM Movement with many justifying the violence against the protestors because they were reduced to criminals. During World War II "many psychologists suggested that the horrors committed by the Nazis against Jews, the Roma and others was enabled by the perception of these groups as 'sub-human', which led to 'moral disengagement' from their suffering" (Bruneau, 2017). With such an authoritarian rule, there was no room to challenge the status quo of dehumanization.

Resistance is the strongest counter against dehumanization because it reaffirms the humanity which many people possess, but can often slip away when one forgets.

# Raíces, Ramas, y Cosechas (Roots, Branches, and Harvests)

## Chicano Studies and Latino Studies as Avenues of Access and Inclusion in Higher Education

**Mark A. Ortiz**

**Abstract** *The foremost achievement of the Chicano Student Movement of the 1960s and 1970s is the emplacement of Chicano Studies in academia. The focus of Chicano students' activism during those two tumultuous decades had its greatest impact in higher education; the result of which was the creation of Chicano Studies as an academic field and program of study.*

*The Chicano Studies Movement was sparked by student activism that began in California in the late 1960s and spread regionally onto American campuses. Chicano Studies was encompassed temporally within El Movimiento (the Movement). Unlike farm workers' rights, land grants restoration, and urban "Chicano Power" protest (wherein each political node had a focal leader), the Chicano Studies movement was diffuse and acephalous.*

*The impact and importance of Chicano Studies in higher education has been a harvest of curricular knowledge that intertwines with cultural identity. The University of California Santa Barbara (UCSB) held a Plan for Higher Education conference in 1969 offering a blueprint on the formation of university-level Chicano Studies. This blueprint became a throughline that led to the creation of today's Lati-*



*no Studies programs across the academy.*

*The social, cultural, and political assertion of Latino identity has been a growing force in the United States. The Chicano Student Movement also promoted more access to post-secondary education for Chicano students. United Mexican American Students (UMAS) and*

*El Movimiento Estudiantil Chicano de Aztlán (MEChA), among other student organizations, recruited Chicano students to colleges and universities, such as the University of Colorado Denver (UCD). A growing demographic of Latina/o/e/x students in higher education derives benefits from Chicano and Latino Studies. These programs, and their students, compose the roots and branches of a harvest of meaningful knowledge and relations that continue to blossom into achievement and empowerment across American society.*

### **El Movimiento Estudiantil Chicano: The Chicano Student Movement and Chicano Studies**

The Chicano Movement of the 1960s and 1970s was the largest and most widespread civil rights empowerment struggle by Mexican Americans in United States history. The most enduring outcome

of El Movimiento Estudiantil Chicano (the Chicano Student Movement) of the 1960s and 1970s is the long-term emplacement of Chicano Studies in higher education. By the early 1970s Chicano Studies had become a specific academic field of study rather than a random miscellany of interests and inquiries. Student mobilization on campuses drove demand for coherent Chicano Studies programs in colleges and universities, and the impact endures. Whether as an academic field, a multidisciplinary program of study, an educational reform, or a vision advanced by students and educators, Chicano Studies is the legacy of El Movimiento Estudiantil Chicano.

Over time the Chicano Movement, like other counter-cultural and protest movements of the 1960s and 1970s, waned with the end of the Vietnam War in 1975. The main leaders and key issues of el Movimiento—César Chávez and the United Farm Workers' struggle for labor rights, Reies López Tijerina and the struggle for land rights recovery of la Alianza Federal de Pueblos Libres (the Federal Alliance of Free City-States), Rodolfo "Corky" Gonzales and the Crusade for Justice's struggle for civil rights, José Angel Gutiérrez and the struggle for political rights and representation by la Raza Unida Party (LRUP), and youth militancy exemplified by the Brown Berets cofounded by David Sanchez and Carlos Montes—lost momentum as social and cultural attention in the U.S. began to turn away from radical and leftist politics that emphasized collective action and protest to attain community goals.

Though the urgency of the activist Chicano student and community movements began to abate after 1973, Chicano Studies had gained traction, attention, and interest. It attained a noticeable and necessary presence in colleges and universities through the development of courses, curricula, programs, departments, publications, faculty and students committed to the institutionalization of Chicano Studies.

In a section of *Latino Political Power*, titled "The Rise of the Chicano Movement in the 1960s," Navarro and Geron (2023, 28-35) could have discussed the process of establishing Chicano Studies instead of ignoring the student movement's efforts to create and institutionalize it in academe. Granted, their book is about politics rather than culture or education. Yet the seedbed of their text and its use in contemporary universi-

ty classrooms are arguably derived from the struggle (la Huelga) for the emplacement of Chicano Studies in higher education, which they are beneficiaries of, even while overlooking its importance as a throughline that has contributed to Latino politics and policy.

To their credit they provide an informative discussion of the political "nodes" of four prominent Chicano leaders: Chávez and agrarian labor justice, Tijerina and land rights justice, Gonzales and urban community justice, and Gutiérrez and political representation justice. These "Four Horsemen of the Chicano Movement" (Baca 2015, 1), brought attention to social issues: Chávez led the Union of Farm Workers (UFW) to win farm workers' rights; Tijerina organized the Federal Land Grant Alliance to restore Hispano land grants in northern New Mexico; Gonzales led the Crusade for Justice in Denver to assert Chicano dignity and resistance and to liberate minds from racist public education systems; and Gutiérrez organized LRUP for political influence in Texas. But concentrating on the achievements of these "Four Horsemen" as the highest moments of the Chicano movement misses the less dramatic, but no less important, movement to embed Chicano Studies into programs of higher education.

### Coverage and Discussion Layout

This article considers the origins and foundations of Chicano Studies during the tumultuous decades of the 1960s and 1970s. In a period of U.S. history when the structure of society was changing and pressured to change more, Chicano students challenged academia's neglect of them by highlighting their heretofore invisibility in university classrooms and on college campuses. They developed a Chicano consciousness insisting on their presence in higher education that had previously ignored or excluded them. Chicano students' demands called for university education that addressed inclusion and gave attention to their culture and history. They sought knowledge of their participation in society so as to become agents for improving their communities. They challenged the dismissive attitudes they encountered that left them feeling underserved or disrespected by the irresponsiveness of faculty and intimidation by administration. To establish a framework for a Chicano intellectual tradition and an academic space for its study, Chicano student activists resisted assimilationist as-

sumptions and sought cultural assertion instead. Thus, because of Chicano student activism, persistence, and ganas (desire), Chicano Studies endures today as an inheritance of El Movimiento Estudiantil Chicano.

In this article I contend that student activism spurred momentum for Chicano Studies, which formed and then anchored in colleges and universities. I argue that as a defining outcome of El Movimiento, it was vital for Chicano Studies to establish itself with students at the forefront. In addition to a discussion about developments pertaining to Chicano Studies nationally as well as locally at Metropolitan State University of Denver (MSU Denver), this essay provides particular case study details from the University of Colorado Denver (UCD), drawing on insights and data available to this article's author who is a graduate student at that university. This study will cover the: 1) effect of temporality in contextualizing and shaping Chicano Studies, 2) vanguard role of California universities in pioneering Chicano Studies curricula, programs, and departments, 3) activism of Chicano student organizations in demanding Chicano Studies at colleges and universities, 4) significant role of United Mexican American Students (UMAS) in recruiting Chicano students to UCD and the consolidation of ethnic studies at UCD, 5) universities with Chicana/o or Mexican American Studies departments that grant PhDs in the field, 6) path towards Chicano Studies at several academic institutions, both nationally and locally, 7) struggle to sustain Chicano Studies in colleges and universities, 8) signification of Chicano/Latino/Hispano/Hispanic/Mexican American as identities, 9) interconnectivity of Chicano Studies, higher education, and students, and 10) call for enhancement of Latino Studies (Latinx Studies) and promotion of student outreach to increase awareness of and interest in said discipline.

### **The Temporality of El Movimiento Estudiantil Chicano**

Chicano student activism in the late 1960s and 70s was serious and purposeful on behalf of introducing Chicano Studies, though it was diffuse in its varied efforts at doing so throughout regional campuses. Unlike the political causes Chávez, Tijerina, Gonzales, and Gutiérrez led, Chicano Studies had no focal leader, but it did have several noted scholars: Rodolfo

Acuña, Juan Gomez Quiñones, Michael Soldatenko, Carlos Muñoz, Mario García, Gloria Anzaldúa, among others. Together with scholarly leaders, Chicano students' fervency and vitality mobilized temporally in a movement that had meaning and effectiveness thereby contributing to what it meant to be Chicano in society and in the academy. But the ascendance of "Chicano Studies" as a legitimate field of study in academe from the 1970s onwards ironically paralleled a decline of the very notion of assertive, even confrontive, "Chicano" identity in American society.

The 1960s and 1970s were a time of rising "Chicano" identity, ideas, causes, and viewpoints that have come in and gone out of fashion. They are reinterpreted temporally. Culture and identity, whether personal or group, are fluid and changing (García-Acevedo 1996). Therefore, the notion of "Chicano," once a moniker of identity, resistance, and empowerment, underwent a temporal eclipse following the 1970s. Mexican Americans use the term rather sparingly today, though they do often refer to the Chicano Movement as the praiseworthy upheaval during the Civil Rights era that sought to reconfigure and uplift them in U.S. society. Though "Chicano" is used at times for purposes of expressing identity, it infrequently describes Mexican Americans today compared to its prominence in the late 1960s and 1970s.

The decade of the 1980s was designated as "the Decade of the Hispanic" (Mora 2014, 6-9) because it was a time when the growing Latino(a) population came to national prominence, and it was the first time the federal government used Hispanic on its decennial survey (Simón 2024). There were Mexican Americans in the 1980s who objected to "Chicano" as a contemporary identifier. It was, after all, associated perhaps too closely with the radical activism of the late 1960s and early 1970s. For Latinos seeking to assert ethnic and cultural identity combined with assimilation or greater attachment to mainstream American identity, "Hispanic" was a less charged and more inclusive term. Hispanic maintains ethnic identity yet one less amplified than Chicano. It was a temporal means to navigate between affirming and expressing identity as well as a desire to belong and be recognized in the United States. The media eagerly accepted the term as it broadened advertising and markets, yet it consolidated consumers within a category – the Hispanic

market. A critic of the term, Acuña (1988) contends, “The term ‘Hispanic’ appealed to [the] new wave of middle-class Mexican Americans. . . . The new Hispanic, in search of appointments and markets, liked the term ‘Hispanic’ because it packaged the Mexican American, the Cuban, Puerto Rican, and other Latin Americans in one innocuous wrapper” (379).

Cultural expressions and dispositions are temporal. Rarely is the American population in the same mood or mode for very long. Perceptions change. In the 1980s, the prior two decades were perceived as uncertain, threatening, dark, paranoid, filled with nightmares, overly provocative, and excessively militant. Thus, it became unfashionable among many Mexican Americans to spout extremist separatist rhetoric in the 1980s (Chavez 1991, 76). Hispanic retained a distinct cultural identity and with it political and economic influence, albeit in closer alignment with a more conservative Reaganesque America. With qualification, Hispanic was emphasized more during the 1980s. The “Decade of the Chicano” -- the 1970s -- had come and gone. The jarring social, political, and economic problems and transformation of American life in the late 1960s and 1970s perplexed the already weakened left. Many Americans became disillusioned with liberals. This development provided conservatives who coalesced into the New Right -- a diverse powerful movement that enjoyed rapid growth in the late 1970s and ‘80s-- with a crucial opportunity to gain a preponderance of authority.

Latino is a broad category and Mexican Americans became part of the larger identity rubric— “Latinos” (U.S. Census Bureau, 2011)—that encompasses them as well as millions of others with origins in Latin America and the Caribbean, such as Guatemalans, Salvadorans, Venezuelans, Peruvians, Argentines, Cubans, Dominicans, and Puerto Ricans (U.S. Census Bureau, 2011). While some Mexican Americans consider Latino to be an acceptable term of cultural identity and interconnectedness, as in pan-Latinidad, others see that it erringly erases Mexicanidad (Nevaer 2020). Being folded into the “Latino” moniker is an unpalatable endeavor at homogeneity to the latter who insist that Mexicano is essential. As an illustration of distinctiveness, Mexicans and Argentines are Latinos, yet important differences delineate them. For instance, Mexicans often chose to emphasize their in-

digeneity claiming a strong attachment to their Indian roots and ancestry; Argentines accentuate their European heritage. As for “Chicano,” to some it is a generationally dated term when Latino is commonly used; yet for those that prefer a nationalistic rather than a heterogeneous identity, Chicano is definitionally specific compared to the amorphous Latino. Calling it the Chicano movement still lives on in Chicano Studies.

### **Chicano Studies in Higher Education: Its Origins in California**

Historically, the first Chicano Studies program was founded at California State College Los Angeles (Cal State LA) in the academic year of 1967-1968 (Guidotti-Hernández 2017). Initially, Chicano Studies was largely a California product for two reasons: 1) the state’s large Mexican American urban population; 2) the Chicano student movement there made Chicano Studies its priority and waged struggles for programs, curricula development, and courses. Students became involved in organizations such as United Mexican American Students (UMAS), Mexican American Youth Organization (MAYO), Mexican American Student Confederation (MASC), Mexican American Student Organization (MASO), and Movimiento Estudiantil Chicano de Aztlán (MEChA). These groups called for programs to help Chicano students academically and, of critical importance, insisted that universities offer courses in Chicano Studies.

Catalyzed by this student movement, the introduction of Chicano studies programs accelerated rapidly at several University of California and California State University campuses during the subsequent 1968-1969 academic year (Muñoz 1989, 130). There were fourteen (Mora et al. 2023, 405-406) of them by 1968. The first Department of Mexican American Studies, which was its original name, was created in response to demands by UMAS on the campus of Cal State LA (Muñoz 1989, 130). UMAS led the way as a vanguard for Chicano Studies on la frontera (the frontier) of academia. At one time, there were some thirty-five UMAS chapters in southern California, with a combined membership of 2,000 and fifty student chapters throughout the state (Gómez-Quíñones, 1978, 5).

Influenced by this student movement, courses in Chicano Studies blossomed during the 1970s, con-



necting students to universities, to one another, and to the Chicano Movement. Further, such courses informed Chicano and non-Chicano students alike that Chicano history, culture, and political and social activism mattered. They made students more aware of Chicano identity and that Chicanos could be political movers and shakers. Chicano Studies provided connective tissue and knowledge that informed Chicanos about where they came from, who they were and why, and to what they could aspire.

Educational Opportunity university programs recruited Chicano students through student organizations such as UMAS. Those who came to belong were valuable. With academic access they grew more visible on campuses, both to faculty and to each other. Moving in and through institutions of higher education where they often had been academically unrecognized, Chicano students became recognizable—not only on campuses and classrooms, but also in their communities, to the public, and to high school students. These college and university students continued to build upon the social and political activism that blossomed into a nationwide Chicano studies movement.

### **Chicano Studies: There's Something Happening Here**

Consequently, the emergence of Chicano Studies was the product of student protest and activism on college and university campuses. Episodes of Chicano protest connected to numerous political and social issues of the time: civil rights protests, political and economic inequality, racism and discrimination, and especially the war in Vietnam, that came together along with student demands for faculty responsiveness to Chicano issues. They swirled temporally into an admixture that laid the foundations of Chicano Studies.

Temporally the Chicano movement was encompassed by the counterculture era of demonstrations, riots, clashes with the police, and the Vietnam War and its immediate aftermath. Mexican Americans faced high vulnerability to the draft and to bearing an unfair burden of fighting and dying in disproportionate numbers in Vietnam (Oropeza 2005, 68, 142, 192). Although some of the anti-war rallies of the late 1960s and early '70s were organized by Chicanos/as, the story of such protests is little known (Mariscal 1999, 2). The

Moratorium against the Vietnam War held on August 29, 1970, was the largest Chicano anti-Vietnam War march. It drew more than 20,000 people to Laguna Park in East Los Angeles (Muñoz 1989, 86). The rally ended tragically when Los Angeles police attacked the event, killing three people, including Los Angeles Times news reporter Ruben Salazar. The police provoked a reaction and an outburst of urban violence (Muñoz 1989). The Chicano Moratorium continued on with its protest. The National Guard's shootings of four students at Kent State University in Ohio in 1970 is a historically memorable event, as it should be; so too should the police shootings that killed three Chicanos during the anti-war march in East Los the same year.

The campus protests of the era, youth rebellion, ideological beliefs, social pressures, and political conflicts over the Indochina War, converged to generate and accelerate the Chicano movement. Chicano Studies came into being temporally amid the political challenges and cultural ferment. Incidentally, a poster in an UMAS office at CU Denver in 1976 was indicative of the times. It was an illustration depicting Chicano students in forward motion behind a Huelga! Flag. On it was a paraphrased quote of French novelist Victor Hugo, "Nothing is more powerful than an idea whose time has come" (Hugo 1877, 334).

The idea came to fruition in 1969 when a three-day Chicano educational conference was held at the University of California Santa Barbara (UCSB) to implement a higher education plan. A major objective was to create college curricula that were relevant and useful to the community (Rosales, 1997, 183). The UCSB Conference issued *El Plan de Santa Bárbara: A Chicano Plan for Higher Education* that established the blueprint for Chicano studies. It emphasized cultural nationalism, rejection of an assimilationist ideology, and a focus on Chicano identity as a "rebirth of pride and confidence" (*El Plan de Santa Bárbara*, 1969). It provided the theoretical rationale for the development of Chicano Studies and for the organization of Chicano Studies curricula and departments (Chicano Coordinating Council 1970, 60).

The Santa Bárbara manifesto linked newfound Chicano consciousness to Chicanos' aspirations for higher education. It offered a vision and course of action for Chicanos in higher education (Lechuga, Nieto, and

Wyckoff 2018, 141). It underscored that students at the forefront were vital for Chicano Studies. El Plan de Santa Bárbara called on the State of California to implement a curriculum and an academic major relevant to the Chicano cultural and historical experience. It stipulated that Chicano students and faculty would be central and decisive designers of programs.

As a manifesto, el Plan de Santa Bárbara connected newfound Chicano consciousness to higher education. Measures for boosting enrollments of Chicanos in colleges and universities included proposed conduits, such as student organizations (e.g., UMAS, MEChA, MAYO), and department outreach. As a way to be unified was needed, the Santa Barbara Plan focused on Chicano identity as the means. It called upon colleges and universities to provide Chicano students with spaces on campuses. Essentially, el Plan offered a vision and course of action for Chicanos in higher education (Lechuga, Nieto, and Wyckoff 2018, 141).

### **Roots and Branches: Student Activism Brought Chicano Studies into Higher Education**

The Santa Barbara conference and its plan were significant to the establishment of a new united student organization committed to the Chicano Movement and academics. Unlike other places, such as Colorado, Chicano students in California dropped the names of organizations, such as MASC, MAYO, and UMAS, that were particular to specific campuses and state regions in order to adopt a single standard that would identify them as part of the same movement – El Movimiento Estudiantil Chicano de Aztlán, abbreviated as MEChA or MECHA (Rosales 1996, 183).

The adoption of MEChA was intended to transcend localism and to persuade students to develop a consciousness of solidarity, seeing themselves as part of the new Chicano generation in a Chicano homeland called Aztlán. Aztlán refers to the original homeland of the Aztecs (Mexico), which Chicanos asserted was in the U.S. Southwest where they lived and appropriated as an ancestral homeland (García 2021, 16). MEChA advocated for El Plan Espiritual de Aztlán, a founding document of political and organizational strategy for the Chicano movement (Noriega 2020, 2) that came out of the 1969 Chicano Youth and Liberation conference that was organized by the

Crusade for Justice and held in Denver, Colorado. Some Chicanos turned to militant struggle and considered that activism was synonymous with their identity; others were less inclined towards group militancy. Nevertheless, members of the movement asserted forms of personal resistance over acquiescence and stereotypical “Mexican passivity.” Ironically, in 2019 local chapters of MEChA decided to drop Chicano (Chicanx) and de Aztlán for various reasons, including: it was too nationalistic (which arguably was its original intention), overly Mexican-centric, and exclusionary of mixed Latinos and Indios (Alcántara 2019; Corona 2019). A criticism of the name MEChA is that ipso facto it is a fallacy. Chicano derivation is mainly from northern Mexicans who are descendants of Spanish ranchers and Native Americans closely related to Apache and other tribes of that regional area than to the Aztecs they had claimed to be (Castaneda 2011). Suffice to say that ties to Aztecs and Aztec-centrism attenuated. The Aztecs had come to be reviled by some Chicano and Mexican communities as imperialists, oppressors, and exploiters. For others, the logic of the origin of the Aztecs produced needless dissent over a point of mythological or historical disclosure that was dispensable.

Regardless of naming conventions, the spatial, cultural, and temporal notions of Aztlán and consideration of what it meant to be Chicano propelled student activism. The formation of MEChA and el Plan de Santa Bárbara’s call for student activism underscored the central role that Chicano youth played in the Movement. As a vital part of el Movimiento, Chicano Studies connected Chicano student groups and individual students to their Mexican roots. Chicanismo was a cultural rebirth predicated on Chicano students finding pride and self-worth in their mestizo heritage and embracing a plural cultural identity. The academic forefront of Chicano Studies’ dialogue, research, and production rose initially in specific California universities, originally fourteen in the 1960s and six more in the 1970s (Mora et al. 2023, 405-406). Indeed, an idea whose time had come, Chicano Studies became the figurative branches that spread geographically, culturally, pedagogically, ideologically, and temporally.

Expanded after the conference, the Santa Bárbara Plan totaled 155 pages. Its proposals for organizing and implementing Chicano studies programs came

to fruition over the next few years. Chicano studies, whether as a program, an academic department, or curricula, was established at California state colleges and on many University of California campuses, as well as community colleges with large working class Mexican American populations (Montoya 2016, 140).

Subsequently, Chicano Studies spread rapidly through the Southwest. UCD, for example, implemented a pilot program of Chicano/Mexican American Studies by 1973. Chicano Studies spearheaded by UMAS at UCD and by MEChA elsewhere introduced courses and programs, and sponsored recruitment by which Chicano students were admitted to colleges and universities. A MEChA chapter emerged at Metropolitan State College. UMAS at the University of Colorado Boulder and at UCD did not change its name to MEChA, though the names were eventually combined as UMAS y MEChA at CU Boulder, then as UMAS y MEXA (Movimiento Estudiantil Xicana) when the organization dropped Chicanx (originally Chicano) and de Aztlán in 2019 (Florido 2019). Muñoz (1989) argues that MEChA and its name did not take hold outside of California because of “the uneven development of cultural, racial, and political consciousness among Mexican American youth in the Southwest” (96). Presumably it did not catch on among Mexican Americans in more conservative Texas. Thus, outside of California, MEChA could not absorb all Chicano student organizations on campuses.

### **Chicano Studies and Latino Studies Nationwide**

The movement’s success in California influenced similar strategies in the Southwest, then the Midwest, and nationwide where in some instances Puerto Rican and Chicano students helped establish joint Boricua/Chicano Studies programs at the Universities of Indiana, Michigan, and Iowa (Acuña 1981, 391-392). Mora et al. (2023) identify that Latino Studies officially began in the U.S. in the late 1960s as Chicano or Raza Studies in California and as Puerto Rican Studies in New York. Puerto Rican Chicano/Puerto Rican studies also emerged in the Midwest where Mexican American and Puerto Rican communities lived in proximity (Mora et al., 393 and Aparicio 1999). The Puerto Rican student movement occurred at generally the same time as the Chicano movement. It stressed how Puerto Ricans faced oppression in

the United States. Thus, Puerto Rican and Chicano activists rejected accommodationist politics. They made themselves visible calling for broader liberation (Fernández 2020; Torres and Velázquez, 1998).

Regarding the Hispanic Caribbean, Puerto Rican studies was established first at City University of New York (CUNY) campuses in 1969, then spread in New York and to other universities in the Northeast (Cabán 2009). The first Dominican Studies Institute was founded at City College of New York in 1992. The field concentrates on Dominican American politics and the intricacies of Dominican racial identity. The latter focus incorporates racialization in Latino studies (Mora et al. 2023, 394). The first Cuban Research Institute was established at Florida International University in 1991. Other Florida universities engage in research about Cuba within their Latin American studies programs. Cuban studies focuses on Cuba’s political history and ongoing social and economic conditions together with emphasis on Cuban transnational immigrant experiences in the United States (Domínguez 1995).

Central American studies developed as new waves of refugees and immigrants established communities in the United States. Central American studies describe the transnational factors that are rooted in U.S.-Latin American relations and that undergird the conditions of migration and settlement (Mora et al. 2023, 394). The first Central American studies department was founded at California State University Northridge (CSUN) in 1969, which in 1969 was one of the nation’s first university-level departments devoted exclusively to the study of Chicano history, literature, and social sciences. The CSUN program evolved into the nation’s largest ethnic studies department and is an incubator for Latino political and policy activism (MacGregor 1999, 1).

In the Rocky Mountain region, Metropolitan State University Denver (MSUD) provides another example of Chicano Studies diffusion. The school offers a Bachelor of Arts degree in Chicana/o Studies, with a concentration in Cultural Studies or Social Practice, or a Secondary Social Studies Teacher Licensure concentration (MSU Denver Chicana/o Studies Majors and Minor Options, n.d.). As of academic year 2023-2024, the Department of Chicana/o Stud-

ies at MSUD is in its fifty-third year, having begun in 1971 at what was from 1965 to 2012 Metropolitan State College of Denver (MSCD). One year after it began with sixty students at first enrollment, the program, initially known as Hispano studies, transformed into the Chicano Studies Department with more than 200 hundred students participating (MSU Denver *Our History, Our Past*, n.d.). The Bachelor of Arts program of study in Chicana/o Studies, according to the Department's home page, analyzes and articulates public policy issues, such as immigration, by means of incorporating concepts, such as Chicanisma/o, Mexicanisma/o, and Latinidad through approaches of inclusive pedagogy and praxis (MSU Department of Chicana/o Mission Statement, n.d.).

MSU Denver's Chicana/o Studies Department has sponsored visits by famous actor and director Edward James Olmos who spoke on gang violence in 1983; world renowned Mexican author Carlos Fuentes gave a lecture titled "Permanencia: The Character of Mexican Culture" in 1984; and actor-comedian Richard "Cheech" Marin delivered a lecture about the Latino aesthetic titled "Chicano Visions" in 2005. The East Los Angeles band Los Lobos played a benefit concert at the Paramount Theater in support of MSU Denver in 2007 (MSU *Our History*, n. d.)

### **What Came to Pass and What Didn't: UMAS at CU Denver Center and University of Colorado Denver**

In 1969, UMAS asserted that the University of Colorado and its Denver Center had failed the Chicano community of Colorado. UMAS charged that both were part of an oppressor system in the western U.S. that considered the Chicano status in higher education as nonexistent ("Proposal: Chicano Studies at CU Denver Center" 1969, 1). This condition had to end. UMAS called on, what was at that time and up until 1973, Colorado University Denver Center (CUDC), to produce scholars to address the problems and issues of contemporary living in Chicano communities. UMAS presented plans for establishing a College of Third World Studies (TWS), a Mexican American Education Program (MAEP), and a Cultural Center that would serve as a nexus between the university and the community. It would develop curricula and position CUDC at the forefront of institutions actively seeking solutions to problems of the barrios (the

bronze metropolises and neighborhoods) and urban campuses of America ("Proposal: Chicano Studies at CU Denver Center" 1969, 1). Such proposals resembled those of the University of California system (Mariscal 2005, 213). UMAS had fought to open doors to Chicanos. At UCD, UMAS became leftist. UMAS asserted that "it [took] the first step of linking up the national liberation struggle to the students." "Immerse . . . in the masses" (Fourth Estate – UCD, "UMAS Leadership's Response to Report" 1976).

Temporally, a paradigm of "internal colonization" was popular for a time as an interpretive approach to considering the Chicano experience in the Southwest and as an ideology of solidarity with Third World people (Castillo and Camarillo 1973; Acuña 1988). This theme of the Chicano anticolonial struggle in the U.S. Southwest was expressed by John Chávez in *The Lost Land: The Chicano Image of the Southwest* (1984). In it he argued that what became the American Southwest had once been the Mexican North from 1821 to 1848. Thus, it is a region central to Chicano history and to modern society.

With this temporal outlook, UMAS called for the immediate implementation of college courses in what then was called "Columbian History": Ancient Indian Civilizations of Mexico and the Southwest, Art of pre-Columbian Cultures; and post: Mexico and the Southwest U.S., Historical Culture of the Spanish-speaking People of Mexico and the Southwest U.S., A Survey of Literature of the Spanish-speaking in Mexico and the Southwest U.S., Conversational Spanish with emphasis on Southwestern Spanish, Contemporary Community Problems of the Chicano, and Surveys of Mexican Art, Dance, and Music ("Proposal Chicano Studies at C.U. Denver Center" 1969, 1). Anticipating the curricular policy question of why not place all Chicano Studies related courses into applicable disciplines by appropriately distributing them to departments of History, Anthropology, Sociology, etc., UMAS contended it would be a mistake because the faculty of such departments had failed to consider them as "relevant subjects." Further, UMAS attested that the area of ethnic analysis suffered from the fact that these disciplines had "tended to develop highly specialized methodologies or approaches which have seldom allowed for a systematic interdisciplinary forum on problems of ethnicity as such" ("Pro-

posals: Chicano Studies at CU Denver Center” 1969, 1). UMAS wanted interdisciplinary Chicano Studies at CUDC that became UCD. UCD implemented a MAEP by 1973. Courses were designated and offered starting in the early 1970s. To their credit students had challenged the structure from within, and their participation brought about a major change to UCD.

While perspectives such as internal colonization criticized both the triumphalist approach of Anglo-American history and the status quo in U.S. history, and helped propel Chicano activism, an autonomous College of Third World Studies, a Department of Chicano Studies, and a Chicano Cultural Center did not come to pass at CUDC nor at what became UCD in 1973. A stand-alone, comprehensive MAEP or department of Chicano Studies did not come to fruition; however specific courses along the lines advocated by UMAS were offered from the early 1970s onwards. In this way, Chicano students at UCD were among the academic, cultural, and social benefactors of *El Movimiento*.

### **Consolidation of Ethnic Studies at the University of Colorado Denver**

Though a Chicano Studies Department nor a MAEP would become ensconced at UCD, the Department of Ethnic Studies at UCD began with Educational Opportunity Program (EOP) higher education revenue allocation. Initial EOP funding, which originated with President Lyndon Johnson’s Great Society federal policy and program initiatives, in combination with an award of a four-year federal start-up education grant were foundational for implementing Chicano Studies/Mexican American Studies within the Ethnic Studies Department at UCD (Martinez 2021).

A faculty committee had initially recommended establishing an Ethnic Studies program in the College of Liberal Arts and Sciences (CLAS) back in 1971, but recommendations were not followed with a commitment to resources (Martinez 2021, 1). The CLAS dean and a faculty committee approved only one full-time faculty position in 1974, awarded to Dr. Cecil Glenn. He also served as a full-time EOP director and in an ancillary position as the Ethnic Studies director. He recruited students from historically underrepresented backgrounds to campus and worked to create an Ethnic Studies curriculum (Martinez 2021, 2).

Various Ethnic Studies programs in this Department had their own directors. For example, Nereyda Luna-Bottoms headed the Mexican American Education Program. Staff and adjunct instructors taught courses related to Black studies and Mexican American studies. While fewer in number, Native American and Asian American studies courses were gradually offered. Professor Glenn Morris in the Political Science Department, MAEP Instructor Everett Chavez, and EOP directors, such as Cecil Glenn and Donna Martinez, taught Ethnic Studies courses. From the 1970s, Ethnic Studies remained an interdisciplinary program leading to a minor. Most courses were taught by part-time instructors, and even after 1990 when Ethnic Studies came to have its own full-time director—Dr. Cecil Glenn—courses continued to be mostly taught by adjuncts (Martinez 2021, 1).

Though UCD’s Ethnic Studies department went through two separate program reviews in the 1990s, recommendations for more resources were not implemented (Martinez 2021, 1). A 2007 program review recommended the development of a major. An Ethnic Studies major degree was proposed in 2008 and received Regent approval in 2012. The Ethnic Studies major experienced growth in its first few years, but it was not supported with additional resources (Martinez 2021, 2) and has not had a robust presence at UCD (in terms of numbers of majors). Ethnic Studies, it seems, remained underfunded and undervalued—and this includes its constituent entities like Chicano studies.

### **Doctoral Programs in Chicano Studies and Mexican American Studies**

Although UCD had a spotty record of supporting Chicano Studies, there are nine universities that offer a PhD in Chicano Studies or Mexican American Studies. The University of California Los Angeles (UCLA), the University of California Santa Cruz (UCSC), and UCSB offer stand-alone doctorates in Chicana and Chicano Studies, often abbreviated as Chicana/o Studies. When UCSB announced in August 2003 that it would offer a PhD in Chicana/o Studies, it became the first university in the United States with a doctoral program in the discipline (Bartlett 2003, 1). The University of New Mexico, Albuquerque (UNM) also has a PhD program in Chicana and Chicano Studies. The University of Arizona Tucson (UARizona) offers



a PhD in Mexican American Studies, as does the University of Texas Austin (UT Austin), which identifies its PhD program as Mexican American and Latina/o Studies. Arizona State-Tempe (ASU) offered a doctorate in Transborder Chicana/o and Latina/o Studies but substantially shrunk the title to Transborder Studies. Universities with PhD programs in the discipline of Chicana/o or Mexican American Studies are mostly located in southwestern states. There are two PhD programs in Chicano/Latino Studies in the Midwest. One is a doctoral program in Chicano/Latino Studies at Michigan State University (MSU) East Lansing; the other, titled Chicana/o and Latina/o Studies, is a doctoral minor at the University of Wisconsin-Madison.

The three universities in California (UCLA, UCSC, and UCSB) and the UNM-Albuquerque name their graduate programs using only the gendered designations “Chicana” and “Chicano.” The two states have substantial Spanish-speaking populations that presumably consider the gendered forms appropriate. While “Chicano” has substantially diminished at times as a term of reference, it has durability in the names of several programs at universities. New Mexico and California are generally politically progressive. They are two of only three states in the 118th Congress (2023 to 2025) with Democratic Senators who are Hispano and Mexican American: Senators Ben Ray Luján (New Mexico) and Alex Padilla (California), respectively. With eighteen Hispanic legislators from California (fifteen Democrats and three Republicans) seated in the House during the 118th session of Congress, California has the largest contingent of Hispanic Representatives of any state in the U.S. Capitol.

### **The Harvest of Chicano Studies: Diversity and Place in Universities**

Chicano Studies has survived since the 1970s. It is characterized by a diversity of perspectives, approaches, and interdisciplinary theoretical frameworks from history, sociology, politics, education, and anthropology. Del Castillo and Wycoff (2010) contend that Chicana/o Studies “is at base, a multidisciplinary field. The combining of pedagogy and praxis . . . is at the heart of Chicana and Chicano Studies” (16). Numerous courses make up the Chicano Studies curricula (Navarro 1995, 59-60). Course offerings in Chicano Studies are in diverse fields

such as folklore, literary criticism, music, art, history, sociology, and politics. El Plan de Santa Bárbara in 1969 envisioned social science, education, and the humanities and the arts finding a place in and contributing to Chicano Studies. Even Spanish language courses could be geared for the first time to Chicano students (Bixler-Márquez et al. 2001, xi).

The academics of Chicano Studies (e.g., curricular programs of the Chicano experience as academic majors and minors) are like spreading branches intertwined with community aspirations (e.g., equality, legal rights) and higher education (e.g., recruitment and matriculation of Chicano students and recruitment of faculty and staff). The anticipated cultural and social action centers of the early Chicano movement, however, did not broadly congeal within universities to meet the moment with expectations of linkage (El Plan de Santa Bárbara 1969, 9-10), though some sort of version of university “social action centers” did eventually develop, such as the Latino Research & Policy Center here at CU Denver. Since the 1970s, there have been cycles of highs and lows in enrollment and interest in Chicano Studies. As an institutional program, sustainability, retention, and financing have been ongoing issues. Chicano Studies faces consolidation—absorption into Ethnic Studies or paired with or folded into Latino Studies. At some institutions, such as the University of Northern Colorado (UNC), Mexican American Studies became Chicana/o and Latinx Studies; whereas at UT Austin the field became Mexican American and Latina/o Studies. The University of Wisconsin, Madison and Stanford University have Chicana/o and Latina/o Studies. Chicano Studies linked to Latino Studies or consolidated within Latino Studies produce programs and course offerings that are academically au courant and presumably result in a broader array or spectrum of Latino awareness. The consequence of a mile wide smattering of coverage but less than an inch deep understanding of the political and cultural components that the original “Chicano studies” model imparted, could end up being the result.

There was resurgence in Chicano Studies from the 1990s to the turn of the century (Bixler-Márquez 2001, xii). Times, though, had changed as reflected by a new academic generation of Chicana feminists who challenged the earlier research of the older Chi-

cano guard. In 1992, a course in “Mexican American Women in Historical Perspective: Pre-Columbian to 1848” became a requirement of the University of California San Diego (UCSD) Department of Mexican American Studies’ standard course offerings and the first of its kind to focus on gender (Chicana & Chicano Studies 50 Years of History-Making 2018, 4). In 1998, the Department’s name changed from Mexican American Studies to the gender-inclusive Department of Chicana and Chicano Studies (CCS). More than before, emphasis was given to gender studies and gender identity, combined with recruitment of tenure-track women faculty (Chicana & Chicano Studies 50 Years of History-Making 2018, 4).

Essentially, factors of gender, sexual orientation, class, multiple ethnicities, and a variety of intersectional identities were mindfully incorporated into courses about Chicana/o history and identity. Rather than a nationalist perspective that defined Chicano culture as an “us and them” paradigm, newly emerging Chicano (Chicanx) Studies and Latinx Studies both consider multiple perspectives and fluid identities, alongside outlooks focusing on transnational migration, social media, gender, and deconstruction of binaries. By emphasizing comparative experiences, contexts, and identities within the Latino milieu, the modern “Chicano” Studies and “Latino” Studies are reinvented for a modern audience of students.

With its robust heritage, Chicana/o Studies has made important contributions to higher education by recruiting Mexican American students, faculty, staff, and administrators; and by: advancing Chicano-focused scholarly output, training professionals, raising cultural awareness, engaging in social activism, and in advancing public policy that benefits Mexican American/Hispanic/ Chicano communities. Chicano Studies built awareness of the historical context of *la gente* (the people) and contributed knowledge about their social engagement in the American experience. The field has shown it can be flexible in adapting to new concerns related to gender (Rose 1990; Martínez 1995) and intersectionality (Zinn and Zambrana 2019; Fematt and Ramirez 2024) as integral to “Chicano Studies.” Yet, the times have changed dramatically since the Movement’s apogee in the ‘70s. This leads to an important question: Will Chicano Studies survive as an academic field?

This question traces back to the 1980s, which witnessed a retrenchment in Chicano Studies. Student preferences changed and by the early 1980s a steady decline began in the number of students taking Chicano studies courses. (García 1996, 186).

Growing libertarianism, conservatism, and individualist attitudes on the part of students led to decreased enrollment in Chicano Studies. Del Castillo and Wycoff (2010) contend that “Student interest in Chicano Studies decreased resulting in low enrollment and consolidation of departments” (8). Chicano studies programs were reduced and even eliminated at many colleges (Acuña 2011, 166). Some were merged with other entities (Migoya 1985, 3). It seems that as student activism decreased, administrative accommodation ceased. After all, college and university administrators had been pressured to accept Chicano Studies because of student activism and unrest (Garcia 1996, 185).

Fundamentally, the cultural nationalism of Chicanismo declined in the 1980s. It was replaced in a fashion by the encompassing “Hispanic model,” which was less pro-indigenous and more pro-Spanish and European (San Miguel 1996, 166). What should not be overlooked about this time though is that Chicano Studies achieved success in bringing attention to the Mexican-American presence and possibility in American society. As there were Hispanics and Mexican Americans in the professions of law, education, business, and administration, some achieved notable prominence in politics and policy. For example, Federico Peña was elected mayor of Denver, Colorado in 1983 and was re-elected in 1987. Henry Cisneros was elected mayor of San Antonio, Texas in 1981. Lauro Cavazos became the first Hispanic to serve in the Cabinet when he was appointed Secretary of Education by President Ronald Reagan in 1988.

Moreover, the political mood of the country had changed from that of the 1960s and 1970s. There was a pronounced right turn in American politics in the 1980s, a decade wherein the presidency was held by Republicans. With the politics of stronger conservative partisanship, yet with some room for accommodation, Hispanic organizations, such as the Hispanic Policy Development Project (HPDP) and the National Association of Latin Elected and Appointed Officials (NALEO) turned to the cor-

porate sector for funding organizational activities. They received funding from large foundations, such as the Ford and Rockefeller foundations and the philanthropic arms of corporations such as Adolph Coors (Chavez 1991, 77-83; Ortiz 1996, 109).

In general, Chicano “street politics” were out. Politics of moderation and out of the barrio were in (Chavez 1991). The conservative political environment of the 1980s, the New Right’s stronger influence in education and federal policymaking, and the emergence of the middle-class Hispanic generation diminished the militancy of Chicano Studies. While retrenchment occurred, it did not halt *el Movimiento*. San Miguel (1996) argues that “activists continued to oppose the structural exclusion of Chicano culture and community from [education] and schools” (165-166).

Nevertheless, the approach to Chicano Studies changed. Teaching intentionally to arouse militant identity politics was out. Addressing diversity in the U.S. as justification for Chicano Studies was in. Toning down militancy and de-emphasizing the movement’s confrontational style in academe came about because Chicano Studies found itself in a precarious position. Budgets grew tight, and programs faced cut-backs or termination. Faculty who taught courses in Chicano Studies had to consider keeping their jobs and securing tenure in a field that was not strongly established or necessarily supported in academe. Apart from the adversity of some in administration and from quarters of the American public, there was an element of mainstream faculty who questioned the field contending it lacked intellectual rigor, or that it was marginally academic at best (Rochin 1986).

Opposition and backlash put Chicano Studies in jeopardy in academia. When Chicano Studies could not be conveniently dislodged from particular institutions of higher education, it could be marginalized. Then it would be barely hanging on; then it likely would dissipate. Apart from the reduction or elimination, there was consolidation and sometimes restoration. The latter two occurred at MSC of Denver. MSCD’s Chicana/o Studies Department faced austere economics and organizational restructuring, which required downsizing. Due to lower enrollments and a financial crisis, in 1985 the Chicana/o Studies was merged with the African American Studies (AAS). Once

consolidated the two departments became the Institute for Intercultural Studies and Services (Thobhani 2009, 9). Though it had an orotund name, it displayed what Migoya (1985) had discussed, that is the merging of Chicano Studies within a catch-all diversity entity coupled with student support services.

MSCD’s Chicana/o Studies Department eventually revived. It returned as a distinct department in the 1990s when MSCD established a policy supporting a multicultural requirement that encompassed “U.S. Minorities.” Further, the political current of the 1990s interconnected with the country’s national interest in multiculturalism. American educational institutions responded to changing demographics in evidence by the 1980s, particularly the demographic surge of a young Latino population in the U.S., and in college/university enrollments. There was significant Mexican and Central American immigration to the U.S. during the ‘80s. Then advocacy for multiculturalism in the 1990s also helped. As for MSCD, an institutional policy created an avenue for increased enrollment (Del Castillo and Wycoff 2010, 9). Cultural and political shifts, changing demographics, and a supportive institutional policy saved and secured Chicana/o Studies at MSCD. This outcome or some other type of development leads to research questions: What drives the changing dynamics of Chicano Studies in colleges and universities at different times? What does the data show politically?

### **A Term That Became Problematic and a Term That Became Preferable**

What should be discerned is that the broad conceptual idea of “Hispanic,” whether as a category, an identity, a world, a community (*la comunidad hispana*), or a decade/era, is the progenitor of Latino Studies. Vast numbers of Latinos share a core commonality—Hispanicity or *hispanidad*. Stavans and Jaksic (2011) contend that *hispanidad* is laden with numerous connotations. Unlike Latino, which they consider evasive, *hispanidad* is a unifier of social interaction and cultural connection. They argue that it is an identity based on sharing a common language that is foundational to a sense of belonging. Language is the emblem of unity (15). There is even more to it as it contains and commingles kindred cultures. As a term of relatedness and interconnection, “Hispanic” provides coher-

ence to the broad and fragmented hemisphere where for centuries there had been a Spanish Empire. Therefore, “Hispanic” is both an historical and a contemporary term of interrelatedness and interconnection.

Such an outlook helps to support the acceptability of “Hispanic” as a preferable or at least a tolerable encompassing term whether based in fact, convenience, agreement, or argument. Such a consensus was then extended to Latino, which came into vogue in the 1990s and superseded Hispanic due to suitability and preference then and afterwards. Suggestive of too much conventionality, Hispanic lost its 1980s luster after the decade ended along with its cachet as a sobriquet.

A critical mass of *la gente de las Américas* (people of the Americas) came to consider Latino as sufficiently ambient, embracing, definitional, suitable, and preferable. Whether used with alacrity or by default, Hispanic is an identity that transcends geography for millions of people. Hispanic set the stage for Latino. Both Hispanic and Latino are terms that serve an encompassing purpose, though the later seems preferable. Hispanic has often been associated with the colonial era or the European colonizer. Latino employs *las Américas* for an overarching identity; as such, it finds greater acceptance.

With the significant rise in the Latino population in the U.S. that is increasingly apparent on campuses, higher education responded. Accordingly, Latino Studies emerged. Latino Studies (or Latinx Studies at various institutions) captures the diversity of hemispheric *Latinidad* and academically packages it with curricula, courses, research, programs, books, readings, and media. And it works in good part because Hispanic laid the groundwork and gained acceptance or at least acknowledgement as an overarching geocultural term that Latino has partly eclipsed.

From these developments questions for further research come to mind. 1) Did proponents of Chicano Studies ensconced in the Academy see Latino Studies coming? 2) Is the relationship between the two disciplines best characterized as an eclipse, or an amalgamation, or *convivencia* (coexistence)? Also, can Chicano Studies’ exclusivity hold out? What conditions and data will determine the answer, and what educational policy effects will be derived?

## **It’s No Longer Just Chicano Studies: Mexican American Studies, Latino Studies, and Hispanic Studies**

If “survivability” is defined by use of the term “Chicano Studies,” things do not look good for the field. Though programs of Ethnic Studies exist across the academy, including multiple “Latino” or combined Latina(o) Studies with a related “Hispanic” pairing, “Chicano” studies programs that identify only as such seem to be diminishing. The universities of Arizona and Texas opted for “Mexican American” in their PhD program titles, though UT Austin joins Mexican American with Latina/o in the doctoral program’s title – Mexican American and Latina/o Studies. Michigan State University (MSU) East Lansing includes both “Chicano” and “Latino” in the name of its department but does not designate the binary gender.

There are combined Chicano-Latino Studies programs in the Midwest at the University of Minnesota, the University of Wisconsin, Notre Dame in Indiana, and Michigan State (Acuña, 1981, 391-392). Both the University of Illinois, Chicago (UIC) and New England’s Brown University in Rhode Island offer PhDs in Hispanic Studies. The PhD degree offered by UIC is named Hispanic Literacy and Cultural Studies; Brown offers a doctoral degree in what it designates as Hispanic Studies. Both universities have offerings that diverge from Chicano and/or Mexican American studies, though some courses, albeit with different names at UIC and Brown, and across the academy, likely present content that corresponds.

It is unlikely that “Chicano” would be used in program titles in highly conservative Texas with a numerically strong Republican legislative majority in the state capitol as is evident in the 89th Legislature where Republicans are 59% of House members and 65% in the State Senate (Legislative Reference Library of Texas 2025). Republicans make the funding decisions that matter to state universities and programs, and pragmatic university administration takes the GOP seriously in Texas. It is Mexican American Studies not Chicano Studies at the University of Texas Austin. For its part, even though Arizona has been moving from deep red Republican to more purplish in recent elections, traditionally the state has had a red reputation. As conservative state politics and politicians in

Texas and Arizona consider “Chicano” unfavorably, the term is not used in public university program titles.

### **A Question of Terminology: Chicano, Mexican American, Latino, or Something Else**

The term “Chicano” has been controversial because to some it carries overtly politicized and negative connotations. In general, “Chicano” expresses empowerment, ethnic pride, a non-assimilationist perspective, and civil rights militancy (García 2015, 2). Perhaps the last two facets cause antipathy on the part of some toward the term. Maybe they see it as inopportune or ill-suited or are bothered by how the nomenclature comes across. *¿Quién sabe?* (Who knows?) For those who identify as such, a Chicano is generally an individual who has self-respect as a Mexican American and as an American and expresses pride in a heritage that is a cultural fusion. A Chicano is attuned and adjusted to hybridity.

But Chicanismo as a type of cultural nationalism goes further conceptually expressing a nationalistic political and cultural agenda; one that conveys a connotation of discordance with Anglo-America. Some Chicanos consider themselves revolutionaries (García 2015, 5). They challenge both conservative and liberal America. As a political movement of social protest, the Chicano Movement opposed assimilation, deference, and conformity. It was built on resistance to illiberal capitalism and to U.S. imperialism. García (2015) argues, “The concept of Chicano culture and identity represented an oppositional ideology that unified the movement” (5). Chicano was a political frame of mind with progressive and leftist features associated at times with leftist politics and protest. “Chicano” is contentious and opting for militancy, resistance, and struggle is at times required in life.

Mexican American does not connote a political disposition of contentious activism the way that Chicano has. Though a more neutral term, it can even be considered patriotically national as American and Mexican are two halves of the name, yet Anglo-American suspicion, ignorance, or antipathy continues toward the Mexican half of the designation. For many Latinos who are Americans of Mexican heritage, their preference is often to identity as Mexican American. For them it expresses their Mexican personae and ip-

seity (and nationality for more recent migrants) than either Latino or Chicano. As Mexican Americans and their culture are regionally diverse based on local cultural patterns and lifestyles, there can be a preference for regional and cultural identifiers such as Hispanos, Manitos, Nuevomexicanos, Tejanos, Tucsoneses, and Californios. These labels, among others, attest to the inherent heterogeneity and diversity of a varied community that does not have a monolithic identity but includes a broad spectrum of backgrounds and outlooks across region, culture, and ideology.

Further, for many Mexican Americans (and Mexicans) “Chicano” has a suspect etymology with a debate about its origins that has not subsided. The word has no fixed origin. The positive contention is that “Chicano” derives from Nahuatl, a language spoken by the Mexica (Azteca), and is possibly that language’s form of “Mexicano,” or maybe it derives from the Nahuatl word “chikani” – a person with physical and spiritual strength (Vento 1998, 221). It could just be Spanish slang derived from Mexicano, or maybe it is diminutive – chico (e. g., “hermanito chico”—Chicano). The negative view is the notion that some Mexicans took “Chicano” to be a slur (circa 1930s-1940s) for uneducated, illiterate, backward, low class Mexicans. Depending on social background, culture, geography, urban, small town or rural upbringing and lifestyle, some “Chicanos” considered themselves as belonging to a pachuco(a) subculture (la Pachucada). They spoke Caló, a patois or dialect or slang of the American urban barrio metropolises, in a distinctive way (e. g., *simón ese, pinche güey, una ruca se aquella, qué chulo vato, little huisa, yepa yepa, yepa, cuidado güero, placa, clicca, baboso, chale carnal chulo, solo tienes una chansa mano, morro chignón, ya pués*).

### **Dear Friends Become, These Chicanos; Over Time Chicanos Become These Dear Friends**

In 1971, singer Joan Báez recorded Woody Guthrie’s “Deportee (Plane Wreck at Los Gatos),” which Guthrie composed in 1948. There is a noticeable lyric she sings in her 1971 version: “Who are these Chicanos, all scattered like dry leaves? The radio tells us they’re just deportees” (Báez 1971; Guthrie 1948). Forty-six years later Báez was inducted into the Rock & Roll Hall of Fame in May 2017. As an inductee, she performed “Deportee (Plane Wreck at

Los Gatos).” She sang the lyrics with the same Spanish names (e. g., Juan, Rosalita, Jesús y Maria) as she had in 1971, except she omitted the word “Chicanos.” There are no Chicanos in her 2017 Rock & Roll Hall of Fame rendition. Instead, she sang: “Who are these dear friends all scattered like dry leaves? The radio tells us they’re just deportees” (Báez 2017 R&R Hall of Fame Performance of “Deportee” on YouTube). The “Chicanos” of 1971 had been replaced in the song by the “dear friends” of 2017. Why are Chicanos in the 1971 version excised in 2017? Is it that in 2017 “Chicanos” as a referent is *démodé*, *passé*, dated, or unfamiliar—or perhaps too politically contentious? Is it that three Anglo American women (Mary Chapin Carpenter, Amy Ray, and Emily Saliers) accompanied Báez in her performance of Guthrie’s folk song? Being Mexican American or Chicana herself, is it that in 1971 Báez sought to emphasize her ethnic connection by changing the line from “friends” to “Chicanos?” Báez had lent support to the United Farm Workers (UFW) in *la Causa* (the Cause) and on behalf of César Chávez’s *Huelga* (strike) for labor rights. She also recorded *Gracias a la Vida* (Thanks to Life) to express solidarity with some Chileans after the brutal 1973 military coup and repression in Chile (Gilbert 2009, 1). Singing about politicized “Chicanos” in 1971 fit the times—in 2017 it no longer did.

It is useful to reflect again on the proposition: The meanings of cultural expressions are encompassed temporally. As times change so do preferences. Perhaps the nomenclature of Chicanos no longer resonated or connected. Its meaning from another time having dissipated, Báez decided to drop Chicanos from the song. Or is it that identifying Mexican deportees as Chicanos would just confuse a North American audience? After all, it was not 1971; it was 46 years later.

### **Becoming a Meager Harvest: Current Challenges of Chicano Studies**

The field of Chicano Studies originated during the tumultuous decade of the 1960s. It was augmented substantially during the 1970s, as reflected in Báez’s 1971 lyrics about “Chicano” deportees. But time has moved on. Mora, Vargas, and Cedillo (2023) contend that “Most Latino studies programs/departments in existence today were founded in the 1960s and 1970s, during the height of the Chicano

and Puerto Rican youth movements. Since then, the rate of new program establishment has fallen considerably despite substantial growth in the Latino college student population and Hispanic-serving institutions—HSIs” (Mora et al., 388). The researchers’ designation of Latino studies programs and departments founded in the 1960s and 1970s is peculiar and confusing. The authors identify that “most Latino studies programs/departments in existence today were founded in the 1960s and 1970s.” By applying “Latino studies” retroactively to those two decades, the researchers improperly erase Chicano, Mexican American, and Hispanic Studies. “Latino” did not even come into common use at least until the 1990s. The presentism of the widened aperture of the Latina/o/x milieu is not reason enough for their replacement of the curricular identifiers and temporal designations associated with the 1960s and 1970s.

The objection registered, Mora et al. (2023) do demonstrate that Latino studies (i.e., Chicano studies) witnessed an early period of robust programmatic growth in the 1960s and 1970s, followed by a longer stretch of relative stagnation and meager expansion. In the founding decades of the 1960s and 1970s, Latino studies (accurately identified as Chicano studies and Puerto Rican studies predecessors) programs were established across numerous public colleges and universities in the West and Northeast, but growth halted thereafter. The steepest decline, and noticeably so, was in the 1980s. A moderate increase occurred in the late 1990s - early 2000s; but it diminished thereafter. The trajectory downwards has continued into the 2020s (Mora et al. 2023, 399, Fig. 4). Since the founding decades, institutional support for Latino/x studies at public universities has declined considerably (Mora et al, 2023, 399).

These numbers suggest a troubling paucity and stagnation of the academic field that was established to operate in concert with justice movements, transformative change, and a necessary growing recognition of the critical role of Latina/o/x peoples in American society (Mora et al. 2023). The researchers assert that newer programs are significantly less likely than more established ones to describe their efforts as rooted in social and/or racial justice. Overall, they conclude that growth of Latino Studies since the 1970s is insufficient and has been severely limited and re-



source-constrained (Mora et al., 2023, 390). Their contention corresponds to that of Martinez (2021) at UCD, who observed that “CU Denver Ethnic Studies experiences growth but is not supported with additional resources.” Martinez’s analysis points to an all-too-common problem facing Chicano/Latino studies programs nationwide: though reviewers have agreed that there should be a major and an undergraduate degree in Ethnic Studies offered at CU Denver, such recommendations have been met by a long wait for tangible commitment of resources (Martinez, 1-2).

In another sign of the changing identity of Chicano Studies, university programs are increasingly changing names that de-emphasize the singularity of the term “Chicano” and wed it to other “adjacent” terms. Chicano studies programs in California have become Chicana(o)/Latina (o) studies, and subsequently, Chicax and Latinx studies (e.g., UC Berkeley in 2022). In 2020, UCLA revised its department’s name to the César E. Chávez Department of Chicana and Chicano and Central American Studies (Wolf 2020). Similarly, Puerto Rican studies programs have become congeries like Latino and Caribbean studies or Latin American, Latino, and Puerto Rican studies (e. g., Rutgers University in 2022 and CUNY in 2022, respectively). South American Latino national-origin groups tend to have been placed and consolidated into broader pan-ethnic Latino studies programs (Mora et al. 2023, 395). The status of Latino Studies as a field and major are fluid, diffuse, broad, and irregular; yet these facets likely advantage Latino Studies over Chicano Studies.

The small and under-resourced nature of Chicano/Latino studies programs in the academy is unfortunate, especially considering the rising number of young people of Chicano-Latino heritage. Only eighty-nine of the 2,637 four-year higher education institutions currently offer a Latino studies major, yet Latinas/os/xs now make up over 20% of college students, and some 559 Hispanic-serving institutions (HSIs) comprise 15% of colleges and universities (Mora et al. 2023, 397 and 399). The demographic surge of a young Latino population in the U.S. would likely fuel renewed interest in Chicano Studies, if colleges had the vision to support to such programs. Mora et al. (2023) conclude that while there has been rapid growth of Latine, Latina/o/x student enrollments and increased numbers in HSIs, that contem-

porary institutional efforts to support Latino studies’ expansion remain meager at best. Mora et al. (2023) contend, “Overall, our findings show that Latino studies growth is minimal, stagnant, and resource constrained. Not even the establishment and rise of HSIs have been enough to spur sufficient growth” (403).

The irony of it is that while student enrollment growth has ensured that higher education has become increasingly Latina/o, and that more Latinos attend college today than at any other time in the nation’s history, yet there continues to be a troubling paucity and stagnation of Latino Studies as an academic field in universities. As a result, Latino college and university students largely lack the curricular offerings that reflect on their histories and detail their contemporary cultural, social, and political experiences. Departments’ diminished course offerings and curricula cause students to seek courses elsewhere in other departments. Mora et al. (2023) contend, “Universities overwhelmingly do not provide programs in Latino Studies” (392). The bottom line is that it appears that there is a lack of *course* offerings in Latino/Latinx Studies for students to take. Negligent diminishment of representation seems to denote inattentiveness, academic deficiency, and even injustice.

### **From Chicano to Latino Studies: A Harvest to Celebrate?**

In the 1960s and 1970s, the programmatic mission of Chicano Studies was the prioritization of issues of justice for groups and individuals, and validation of community. It was concerned about detailing and addressing inequality. Programs expressed normative commitments to racial-justice-oriented societal goals. An activist and liberatory ethos sought intellectual expression. There were efforts to put into place what had been previously ignored or marginalized as cursory instruction related to Mexican/Mexican-American/Hispano/Chicano history and contributions.

Recovering the Hispanic dimension of the history of *americanos* underscores Hispano-Indo *mestizaje* (the process of racial and cultural mixing) as foundational to shaping narratives about borderlands, multicultural developed societies, and interconnected identities. To millions of *americanos* of the *Américas*, *América* is not synonymous with the United States

(Chasten 2008, 1-3). Fernández-Armesto (2014) contends in *Our America, A Hispanic History of North America and the United States*, “There are other US histories than the standard Anglo narrative: in particular, a Spanish history, rolling from South to North and intersecting with the story of the Anglo frontier. . . . Anglo America injected or intruded into a Hispanic-accented account” (xxviii). Americans should know that a Hispanic past of long duration over vast space in North America became the United States. Hispano and Mestizo settlement in El Norte preceded the arrival of Anglo-American colonial settlers. The interplay of urban and rural societies and encounters in the Américas, and coverage of Mexico, borderlands, and the cultural interactions of *la gente* in the Southwest is knowledge that students should encounter in secondary and higher education. Developing a Chicano consciousness about hybrid, pluralist American society is what it should mean to be properly educated about American realities.

Much of the contemporary rationale of “Ethnic Studies” and “Latino Studies,” stresses learning about cultural diversity to facilitate “multicultural competency” (Mora et al, 2023, 402). Awareness that Latinos are neither marginal or niche is timely. Latino communities are a major feature of the U.S. landscape. Most Latinos are not undocumented or “alien” foreigners rather they comprise the U.S. tapestry with experience in its promises and pitfalls. What likely is left out or recedes in this story of inclusivity is critical bite, contentious questioning, and debate about exploitation, marginalization, and both justice and injustice related to the “Chicano” experience. What is also of concern is the matter of tenure and non-tenure track faculty reductions that can result from aggregated Ethnic Studies Departments or stand-alone ethno-related programs that are staffed more by adjunct lecturers, vulnerable at-will instructors, and affiliated faculty who have to be circumspect about overt political expression in and outside the classroom.

### **Conclusion: Raíces, Ramas, Cosechas (Roots, Branches, Harvests)**

It was important to have introduced and established Chicano Studies in colleges and universities during the 1960s and 1970s, and in the subsequent decades. That Latino Studies has been established for simi-

lar reasons is salutary. Renewed support for Latino Studies, which can be inclusive of the Chicana/o/x perspective, is a good development. Latino Studies programs are known to increase student retention, academic attachment, and to facilitate positive educational outcomes (Marrun 2018, Sleeter and Zavalla 2020, and Sueyoshi 2020). Latino Studies programs enhance belonging, visibility, representation, justice, multiple perspectives, and student-classroom-campus engagement. These valuable assets complement campus climate, improve social interaction, and result in diverse experiences and education. They positively impact student learning, improve rapport, favorably enhance universities, and contribute to caring and involvement. These conditions benefit the Academy.

In American higher education, the Latino demographic is increasing. Latinos account for 19% of the U.S. population as of 2021 (Moslimani and Noe-Bustamante 2023). In public policy terms there is more to do to ensure that the increasing Latino population is well-represented and well-served in higher education. For this to occur impactful institutional policies are needed. These could include student outreach, publicizing campus programs, drawing attention to activities, academic support, coaching, and mentoring, and a durable commitment to the viability and sustainability of Latino Studies as an interdisciplinary field. Just over half a century ago there were meaningful and persuasive efforts to establish the academic discipline of Chicano Studies. Yet attention to Chicano Studies and its descendant Latino Studies, has dwindled. The decline or absence of Latino Studies in most universities is disregarded. To counter such stagnation and neglect, Latino Studies requires renewal, mindfulness, enlivenment, and advocacy from students, faculty, and educational leaders. It can be a community effort. Significant administrative amenability, support, and responsiveness are needed to foster this consequential interdisciplinary field.

The Chicano student movement contributed to higher education, to Mexican American/ Chicano/ Latino youth empowerment, to the well-being of Hispanic communities, and to the United States. El Movimiento Estudiantil Chicano improved access to higher education for Chicanos and Hispanics across the nation. Undoubtedly this was so in Colorado whether urban or rural from Denver to

Greeley to Walsenburg to Manzanola, among many other cities and towns. Chicano Studies formed, it brought in students and likely had a role in retention.

In response to El Movimiento, pipeline programs (EOP) and student organizations (UMAS, MEChA) then recruited more Hispano, Chicano, and Latino students into colleges and universities. Thus, there were places established to learn about Chicano civil rights and culture. Thus, from the figurative academic roots emerged academic branches that spread bearing a collegiate harvest.

Reflected on many campus murals are imbricated images of Chicano/Mexican American/Hispanic/Latino student activism, work, study, struggle, and achievement. Beyond the images on these murals, it is the robust programs of Chicano and Latino Studies that become the pathways through higher education, metaphorically serving like the causeways of the lacustrine Mexica city of Tenochtitlán.

It is the place and commission of academe to impart Latino-based narratives to the community of learners in higher education. Chicano and Latino Studies form the academic roots and branches that bring forth harvests of knowledge, healthy relationships, purpose, connection, contribution, and meaning. Growing from the transformational seeds of 1960s and 1970s activism, they may yet become the flourishing branches of Chicano liberation, if our institutions of higher learning would only nourish them.

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# Collective Housing as a Solution to LGBTQ+ Homelessness in Denver

Jem Aspen

## Abstract:

*The international housing crisis has led to disproportionately high rates of homelessness and housing insecurity among LGBTQ+ populations. Historically, collective living has been utilized as a housing solution and resource-sharing tool among queer communities, as seen in the ballroom movement most prevalent in the late 20th century. This paper explores collective housing as a formalized solution to LGBTQ+ homelessness and housing insecurity by comparing three case studies of existing collective housing organizations. Multiple collective housing structures are considered, with particular emphasis on community land trusts as a viable tool to facilitate stable conditions for LGBTQ+ collective living.*



do not) joining together to combine financial resources and live in the same household.

Perhaps the most notable example of this strategy is the ballroom structure, in which queers in large cities have participated since at least the early 20th century (Kubicek 2016). Ballroom culture was brought into broader view in 1990

with the release of Madonna's "Vogue" and the documentary film *Paris is Burning*. "Vogue" utilized the unique style of dance employed in queer balls and featured multiple dancers from the ballroom scene, while *Paris is Burning* visually documented balls and ballroom living structures in New York City. More recently, ballroom has received greater visibility in popular culture with the historical fiction television series *Pose*. As portrayed in these media, ballroom housing structures were based around "houses" (Kubicek 2016). A house is a family-like group who live together in the same household under the care of a house head, typically referred to as a house mother or father. The house's "children" were typically younger queer and/or BIPOC people of low economic status. These houses then competed against each other at balls—competitions where participants "walk" (similar to walking a runway) in numerous categories that vary by gender identity, presentation, and fashion style. Winning in these categories would earn prestige both for yourself and your house.

Those who identify as LGBTQ+ are among the highest risk of homelessness compared to other demographics. LGBTQ+ young adults have been found to be more than twice as likely to experience homelessness or precarious housing as cishet peers (Morton, Dworsky, and Patel 2018). The Trevor Project reported that 28% of queer youth have experienced homelessness or housing instability (Trevor Project 2022). That number increases to nearly 40% for transgender youth. Facing such challenges, queer individuals have utilized numerous structures and strategies to survive in a cisheteronormative society. One popular strategy has been collective housing—individuals who identify as LGBTQ+ (and sometimes others who

In terms of housing, the ballroom structure was largely informal. House children would generally be at



the mercy of their house parent, and no mechanisms were in place to create collective ownership of the home (Telander et al. 2017). However, the culture and structure are rooted in compassion, community, and the power that comes from unity among members of marginalized groups. These values are vital to working against the problems the LGBTQ+ community continues to face today, and the ballroom movement offers an important source of inspiration for potential solutions. Indeed, collective (or “social”) housing is an increasingly common strategy in today’s global housing crisis (Chazanas 2023; Vestbro 2000).

In the following paper, I will conduct case studies of three collective housing organizations that are currently active, analyzing their differing strategies and tools and identifying strengths and drawbacks to their organizational methods. Representatives from two of the organizations—Queen City Cooperative in Denver and HUSK in Australia—were interviewed for this project. The third case study is of Queer the Land, a Seattle-based organization. Following these case studies, I will explore community land trusts, a legal mechanism for establishing collective housing that has been utilized by numerous organizations, including Queer the Land. The goal for this article is to determine a rough plan for how to reasonably establish collective housing in Denver, Colorado, using information that can be assessed by examining these preexisting organizations.

### **Case Study: Queen City Cooperative – Denver, Colorado**

Queen City Cooperative (QCC) is a housing cooperative in Denver, Colorado. Its mission is to “provide opportunities for member-owners to flourish through self-help, self-governance, equity-sharing, and mutual aid” (QCC n.d.). As part of the following case study, I interviewed QCC cofounder Stephen Polk. According to Polk, while QCC was officially established as a co-op in 2022, the organization had been in development since 2015 after he returned to Denver from a year-long stint in collective housing units in New York City (Polk 2023). Polk had already lived in Denver renters’ collectives from 2004-2014 and had spent that time surrounded by queer and anarchist cultures. After meeting his partner Sarah Wells in 2014, they decided to pool their resources to buy a large house

to live in collectively with several other housemates, though they were wealthy enough to live comfortably alone. According to Polk, he and Wells were driven by their love for collective living and their desire to live according to anarchist values. In service of those values, Polk and Wells sought to do their part to de-commodify housing (Polk 2023).

After purchasing a home in their names and identifying fellow residents with whom to share the space, Wells and Polk quickly realized that they were not able to live according to their anarchist principles while their names were on the deed, which gave them unilateral power over the other residents regardless of their actual intentions. This power imbalance mirrors the problematic dynamic found in ballroom housing structures, wherein the house parents maintain nearly unilateral financial power despite the cooperative nature of the living environment. To eliminate this imbalance, Polk and Wells chose to establish QCC as a limited equity cooperative (LEC) that would allow all residents to share equally in ownership of the property. This process was long and arduous, taking five years to establish bylaws and requiring the assistance of two lawyers who specialized in co-op law. Wells and Polk wanted to establish an LEC rather than a nonprofit, which created confusion among their lawyers and difficulties in dealing with Colorado law, which is more restrictive of LECs than New York law.

Wells and Polk started with the broad idea of establishing social housing, which Polk defined as a housing situation that includes residents maintaining democratic control of the property and their living conditions, de-commodification of the property, and the provision of social equality among residents (Polk 2023). The broad term of social housing acts as a typology featuring various subtypes, including land trusts, cooperatives, and resident-owned communities such as mobile home parks. Cooperatives, however, were the model for QCC, specifically as an LEC.

Legally, an LEC is a corporate entity—sometimes a nonprofit, but in QCC’s case, an entity made up of individual residents (Papoutsis 2019). The corporation purchases the property in its name, and the residents purchase shares in the cooperative, making them shareholder-owners. As Polk and Wells desired,

the LEC is managed equitably and democratically by the resident-owners, subject to bylaws that apply to all residents. The LEC is decommodified in that residents are not permitted to sell their shares for a profit, but they can still sell their shares at market rate. Further, as part of their rent, QCC residents pay into an account that accrues 3% interest per year, which the residents receive back when they move out. Rent itself is quite low for the Denver area, around \$600-\$800 depending on the room. Part of what allows QCC to keep rent low is that they subsidize costs by renting out a smaller home behind their main property as an Airbnb. Polk acknowledged that owning Airbnb properties is controversial, as it removes permanent housing from a market that currently lacks enough housing units. However, he defended the decision, arguing that without the supplemental income covering maintenance and other upkeep costs, rent would be significantly higher for residents (Polk 2023).

Another mechanism by which QCC maintains affordability is the use of share loans, which is essentially a mortgage on your individual room in the property. Currently, QCC finances these loans, which the residents pay back as part of their rent. Once the share loan has been paid off, the resident's monthly costs decrease to cover only the property mortgage, insurance, taxes, and other upkeep costs on the property. Share loans are available only to those who are classified as "members"—those who are actually purchasing a part of the LEC. For the first six months that an individual rents a room, they are considered to have "resident" status rather than membership. After those six months, residents who meet a set of criteria can apply for membership and, upon approval, receive financing for a share loan. Share loans not only allow members to become co-owners, but they also provide QCC with liquidity. In order to finance the loan, QCC charges 7% interest, which the LEC uses to build a cash reserve. However, for the past five years, Polk and Wells have been meeting with the Colorado Housing and Finance Authority (CHFA), a state-funded organization that invests in affordable housing and community development, to establish alternative financing sources (CHFA n.d.). According to Polk, CHFA will begin financing share loans for not only QCC, but also for other cooperatives (Polk 2023). This will potentially allow more organizations to utilize an LEC model, in addition to alleviating

part of QCC's current financial burden.

QCC faced significant legal obstacles to its creation. At the time it was formed, City of Denver law stipulated that no more than two unrelated adults could live in the same household. Polk alleges that this policy was intended to both limit population density and to prevent residents who were deemed less desirable, such as former prisoners, from securing housing in affluent areas (Polk 2023). News reports from the time indicate that opponents publicly expressed a desire to avoid Denver homes from developing into "frat house" environments (Hernandez 2021).

So, QCC undertook what Polk described as a "painful" three-year process to reform Denver's zoning laws (Polk 2023). First, QCC worked with the city's Department of Community Planning and Development to draft a proposal that would have allowed up to twelve unrelated adults to share housing. This plan received significant pushback from NIMBY groups, who argued that raising the zoning limit would lower property values. Eventually, the proposal was revised to allow up to five unrelated adults to live together, and in February 2021, the Denver City Council voted to pass the more moderate plan (Hernandez 2021).

Despite this progress, QCC continued to receive resistance from individuals and organizations in Denver. Opponents of the proposal created a 2021 ballot initiative that would have reversed the new zoning law, but the initiative failed with a rejection of close to 70% of votes (Harris 2022). Even now, Polk describes barriers from the city and opposing organizations, some of which have threatened to move legally against QCC for currently hosting eight residents—though Polk is confident that they have legal precedent to exceed the five-adult limit due to alleged loopholes within legal definitions of the term "family" as it applies to unrelated cohabitants (Polk 2023).

The collective housing structure utilized by QCC has both benefits and significant drawbacks, some of which would make it impossible for many organizations to follow in their footsteps. The primary benefits of QCC's status as an LEC are autonomy and a heightened capacity for wealth-building. Because the LEC owns the property outright, it is not subject to input from third parties, such as a nonprofit or landlord. This allows QCC's residents to act with great-

er democratic control over their home environment than many others living in collective housing. QCC was also able to skip the difficult process of establishing a nonprofit organization. Further, the fact that all residents possess legal status as co-owners allows them to build wealth through the property, mainly via the interest-building financial model utilized by QCC. While such wealth-building is limited, it presents greater financial opportunity than does renting. However, this framework was made possible mainly due to Polk and Wells' preexisting wealth, with which they purchased the 12-bedroom property. Without such significant initial funding, resident ownership becomes far less plausible. Additionally, while QCC successfully avoided the added complexities of establishing and functioning as a nonprofit, the process of establishing an LEC was still lengthy and difficult, especially given that many Colorado lawyers with experience working with cooperatives are unfamiliar with LECs. Perhaps QCC's pioneering effort will pave the way for future LECs in the state, but the impracticalities of funding property ownership through an LEC remain significant barriers.

### **Case Study: Queer the Land – Seattle, Washington**

Formed in 2016, Queer the Land (QTL) is an ambitious organization based in Seattle, Washington that seeks to radically transform both land ownership and labor. QTL describes themselves as “a collaborative project grounded in the self-determination of queer, transgender, and Two-Spirit Black/ indigenous/ people of color (QT2BIPOC)” (QTL n.d.a). The project was itself a collaboration between two preexisting organizations: the Queer & Trans Pan-African Exchange and Building Autonomy and Safety for Everybody. Their primary mission statement is “to create a movement-building space that can generate income and become a political hub for QTBIPOC and our community organizing” (QTL n.d.a). QTL endeavors to create a living space that is somewhat self-sustaining and may even provide members with a source of income. Their vision for a “QT2BIPOC-owned and operated cooperative” is “to include transitional housing, co-working space, venue space, communal space, and a community garden” (QTL n.d.a).

In January 2021, QTL purchased a 12-bedroom, 3-story house following a yearlong buying process

(Sprayregen 2021). QTL Program Manager Evana Enabulele was contacted by the sellers in December 2019, informing them that the Emma Goldman Finishing School was for sale after the sellers determined that the school was not upholding its community-living mission (Misbah 2023). This breakthrough occurred after QTL had already been working unsuccessfully to buy a property since its founding in 2016. According to QTL members, the organization struggled to complete the purchase, even with the assistance of multiple pro bono lawyers, and allegedly faced significant racism (Sprayregen 2021).

The use of a community land trust is central to QTL's plans. However, the nature of QTL's relationship with land trusts is unclear based on available sources. According to Forbes, purchasing the 12-bedroom property was a step toward QTL's eventual goal of forming a land trust (Sprayregen 2021). Some outlets have reported that QTL made the purchase using membership dues, fundraising, and grants (Misbah 2023), while others indicate that the preexisting Evergreen Land Trust (who now allegedly owns the property) assisted in the purchase (Nonko 2021). The mission of Evergreen Land Trust (ELT) is “to encourage the development of cooperative communities and sustainable land use practices through the preservation of land and housing” (ELT n.d.). Perhaps most vitally, QTL obtained \$200,000 in grant funding from Seattle's Equitable Development Initiative (EDI) (Sprayregen 2021). The EDI consists of \$5 million in municipal funding intended to fight gentrification in neighborhoods with high displacement risk (Derrick 2019). The final cost of the property was \$225,000, meaning that EDI's contribution amounted to nearly 90% of the total amount (Misbah 2023).

As of February 2025, QTL is still in the process of readying the home for residents and guests (QTL n.d.b). In addition to housing, the property is intended to include a community center and community garden. Due to renovation costs, QTL has not yet determined whether to renovate the house or demolish it and build a new structure. According to Enabulele, the home is intended to provide two- to three-year long transitional housing for residents (Misbah 2023). Despite limited public information and the fact that QTL does not yet have functional housing, the organization's experience and goals are unique and note-

worthy. First, the use of a community land trust is a recurring theme among collective housing projects. Many projects encountered during this research involved a land trust, while community land trusts have previously been utilized as an affordable housing solution in the Denver area.

While the land trust process QTL utilized was somewhat opaque, ELT itself has published information about its model (ELT n.d.). As a land trust, ELT legally owns properties and holds them in trust. The trust is defined by a trust agreement, which outlines the responsibilities and powers of ELT and the property's residents. Residents are tasked with maintaining the property, and they may be governed by their own community agreements. However, ELT maintains its own policies that residents must adhere to, which are drafted by ELT's board. The board bears the right to "step in" if they determine that the community is failing to uphold its end of the agreement (ELT n.d.). ELT's policies are not publicly available.

Another notable aspect of QTL's project is the use of significant grant funding from Seattle's EDI. As noted previously, the \$200,000 QTL received from EDI covered nearly the entire purchase cost of the property. However, that does not account for additional costs such as renovating or demolishing and rebuilding the home. QTL estimates that renovations would cost \$628,000 (Misbah 2023). Still, the amount of funding EDI contributed may have been a necessary turning point for QTL, and that level of municipal-level community funding may not be available to all organizations. Therefore, it is worth considering whether similar grant opportunities are available in the City of Denver and, if not, whether lobbying for such funding is advisable for a collective housing project in the area. Additionally, QTL did not possess grant writing skills upon undertaking the project (Nonko 2021). The fact that they were still able to obtain significant amounts of grant funding, both from EDI and smaller grants, is noteworthy. More details would be useful regarding the degree to which their lack of grant writing experience hindered them, if they were able to find such expertise eventually, and how that impacted the process if so.

Further, an aspect of QTL's story that is applicable to other case studies in this paper is the amount of legal

and financial complexity the organization faced. For example, in addition to facing alleged racism during the buying process, Enabulele described that there were "a lot of stipulations [from the sellers] in order to get [the property]" (Nonko 2021). QTL founding member Denechia Powell further expounded: "Most states are not built for it to be easy for a group, or collective of individuals, who are not a 501C3 nonprofit ... The laws make it very, very hard for collective housing to be a thing" (Nonko 2021). Additionally, QTL had to balance the policies, goals, and values of multiple parties, including the sellers, ELT, and Seattle's EDI. Such barriers and complicating factors may have limited QTL's options in terms of what properties were available to them to buy and what means they had to make a purchase. Legal difficulties also necessitated the assistance of multiple pro bono lawyers (Nonko 2021). QTL demonstrates the complex nature of a community-based, anti-capitalist, collective housing organization purchasing even a single property and shows the need for such an organization to utilize creative methods to limit costs and procure funding.

Finally, QTL's vision for transitional housing is more ambitious than many projects that focus solely on the housing aspect. Their plan includes making the space usable for the broader community as a gathering space, community garden, food pantry, and venue (Ishisaka 2021; QTL n.d.a). These uses of the space could do a great deal to further ties with both the local LGBTQ+ community and other communities. Alternatively, they could complicate the process of purchasing, preparing, or maintaining a collective housing property. Additional complications could arise if the space is intended to house minors. The benefits and drawbacks of utilizing a housing property for these kinds of wide-ranging community-building efforts should be further explored.

### **Case Study: HUSK Housing Support – Narrm / Meanjin (Melbourne / Brisbane), Australia**

HUSK Housing Support is a collective housing organization operating primarily out of Narrm and Meanjin in Australia. I interviewed a HUSK organizer for this paper who chose to be identified only as Emily. Unlike either QCC or QTL, HUSK seeks to operate independently from government institutions and does

not seek government funding or involvement. HUSK serves two primary missions: first, to combat the housing crisis occurring in Australia and around the world by utilizing a mutual aid, anarchist framework and seeking sustainable solutions to ensure that all people have the right to a home regardless of their status; second, to promote mutual aid and anarchism and to oppose hierarchies in Australia and internationally (Emily 2023). HUSK's target demographic is women, children, and folks who are gender-diverse or otherwise queer. The organization structures itself as a mutual assistance organization—those who are active organizers also receive organizational assistance, and HUSK therefore takes on a culture wherein providing and receiving assistance both happen simultaneously.

Because HUSK does not accept most government funding, their funding streams are more scattered than those of QCC, QTL, or an average nonprofit. Funds come piecemeal from a variety of sources, such as fundraisers and occasionally grants from other organizations. HUSK has few regular donors and has not been able to turn donations into a regular funding channel. A large part of why HUSK lacks avenues for funding is that they initially attempted to exclusively work without money, originally acting as a squatting collective. However, as HUSK's goals became more ambitious, they determined that they had no choice but to raise funds. What money the organization has access to goes primarily toward paying rent for residents living on properties managed by HUSK. Other funds are used to create food packages for those suffering from food insecurity, paying for children to attend classes like gymnastics, and providing culturally appropriate food for families who are unable to obtain it themselves.

Since HUSK does not have sufficient funds to purchase properties themselves, they instead pay rent to landlords on behalf of residents who require assistance. They also help maintain the properties. Despite not being the owner of the homes, HUSK does maintain strict rules for residents of the multiple properties they manage, such as bans on alcohol, drugs, or personal visitors. Typically, a home operated by HUSK is managed by a host trained by the organization who can supervise the other residents, though sometimes residents who are trusted by the organization are permitted to reside in a home without a host present.

HUSK also operates a headquarters where members sometimes stay. In general, the network of homes maintained by HUSK is informal. A property is a HUSK property because the organization provides assistance for its residents rather than because HUSK has actual ownership of the home, unlike QCC and QTL. When asked if HUSK has explored the possibility of utilizing a land trust model, Emily answered that they had not and were only aware of one other organization in their area that had attempted to use a land trust, which had subsequently abandoned the project (2023). The high costs of properties in the Narrm area combined with HUSK's lack of funding or willingness to seek government grants prevents the land trust model from becoming a genuine possibility for the organization.

While HUSK's less formalized approach to housing has drawbacks, particularly in terms of available funding, there are also notable benefits. One benefit is quicker resource delivery to recipients. Unlike QCC or QTL, who underwent or are still engaged in years-long processes in order to provide housing, HUSK is less limited by legal restrictions or bureaucracy. Indeed, aside from money, HUSK's ability to immediately house those who need shelter is limited primarily by the available human-power and resources of its members, who HUSK relies on to host residents in their homes. This presents a tradeoff, as one of the organization's identified obstacles is sustaining their capacity by preventing member burnout (Emily 2023). Due to the nature of the mutual aid model, many of the members who are most active in providing aid are also in need of assistance themselves. HUSK is keenly aware of this and takes steps to prevent burnout, such as allotting dedicated member work hours for members to care for their own needs.

Furthermore, another benefit of HUSK's decentralization and lack of government funding is that they are better able to select their own agenda and prevent government influence from deradicalizing their organization. However, this too presents a tradeoff. While HUSK has greater freedom over their goals and values, they must still be careful about their public image, as publicly taking certain radical political positions can lead some allies to renege their support. Given their reliance on a network of individuals to provide and distribute resources, maintaining positive relationships and avoiding alienating allies, like those

who Emily describes as being on HUSK's "periphery" who offer their services as hosts, is of utmost importance to the organization (2023). Indeed, avoiding internal discord is of such high priority to HUSK that it has even impacted their chosen target demographics. HUSK not only prioritizes women and "gender-diverse" people ahead of cisgender men (who, they argue, have access to other resources outside of HUSK), but they further limit the extent to which cis men may participate as organizers. Emily described violence from cis men as a key obstacle to organizing, describing their presence as making the environment more "hectic" (2023). She even cited the difficulty of working with cis men in other organizations as a contributing factor to HUSK's creation. While this level of demographic selectiveness may not always be advisable, it demonstrates the steps organizations like HUSK must take to cultivate internal harmony and support their radical goals.

### Analysis

The three case studies featured in this paper offer insight into three distinct approaches to collective housing, each with positive and negative aspects. Queen City Cooperative is perhaps an idealistic example of what collective housing can be—a collection of individuals sharing ownership in a property, maintaining an equal democracy, and reaping significant financial benefits of homeownership. However, to achieve this level of autonomy required substantial independent wealth on the part of founders Polk and Wells (together with a source of regular income through AirBnb rental), which most collective living structures will not have access to. Queer the Land presents a similarly ideal, but more achievable, image of collective living, fulfilling their goals primarily through grants and member dues. QTL owns their home just as QCC does but exchanges lower costs for decreased independence by living under the policies of a third-party organization and lacking ownership of the land the home rests on. HUSK fits into the opposite extreme from QCC, electing to forego many typical sources of nonprofit funding in favor of maintaining their autonomy in order to adhere to their radical values. This allows HUSK to focus on putting resources toward labor but forces them to rely on networks of heavily burdened individuals and prevents them from scaling their operation further.

### Key Similarities

A key component contributing to the success of all three organizations is their access to vision-driven individuals who possessed skills and experience relevant to creating and managing nonprofits and/or housing collectives. Polk, in particular, stressed the value of his previous decade of experience living in social housing as an asset to the success of QCC. Further, while their experience managing collective housing is unclear, HUSK organizers had prior experience in mutual aid organizing that informed their current strategies. Both QCC and QTL relied on the assistance of legal experts to assist with the process of establishing their unique forms of collective housing. In the case of QCC, the previous experience of Polk and Wells was instrumental in guiding their lawyers' efforts, providing instructions to form an LEC rather than a typical nonprofit. This further demonstrates the value of the couple's experience and intentionality. Contrastingly, while available information is more limited, QTL appears to have understood less about the process of procuring property for collective housing at the outset and formulated a plan over time to utilize a land trust model, which may have cost the organization time and resources.

Another takeaway from all three organizations is their shared ability to utilize creative sources of funding and/or identify means of sufficiently lowering costs. QCC and QTL succeeded at keeping their housing affordable by employing unique organizational structures (LECs and CLTs respectively), while HUSK chose to build a low-cost mutual aid structure to supply housing. QTL appears to have had a particularly difficult time raising funds, neither having independent wealth at the outset like QCC nor structures for low-cost housing support like HUSK. This limitation led QTL to seek funding from the Seattle government and pursue the assistance of existing organizations, especially the Evergreen Land Trust.

This point aligns with the next notable similarity—each organization's reliance on collaborative relationships. All three collectives dealt with unique legal and financial struggles that necessitated collaboration with multiple parties. They can be loosely ranked according to the formality of their relationships. First, QCC faced the substantial limitation of Denver's



zoning codes and worked directly with the City of Denver's Department of Community Planning and Development to draft a proposal to increase the city's non-family resident limit, in addition to collaborations with legal experts to constitute an LEC. Second, QTL was formed out of an alliance between two existing organizations and subsequently teamed with ELT to secure their property as a land trust, circumventing the high cost of living in Seattle. Finally, HUSK's collaborations are the least official, consisting largely of relationships between members, peripheral individuals who offered services, and other nonprofits who shared financial support.

#### Key Differences

Three differences between the case study organizations are noteworthy: (1) the amount of funds each housing project had available at its outset and the organizations' existing avenues to collect additional funding, (2) the level of involvement the organizations were willing to establish with local governments, and (3) the primary mechanism used to initiate and manage collective housing. Beginning with the first point, the disparity in starting funding can be organized as a tier: Queen City Cooperative at the "top" with sufficient funds from personal wealth to make a down payment on a 12-bedroom house in an expensive U.S. city, Queer the Land with what funding sources were already available from the two organizations that founded it, and HUSK with little to no starting funds and an active desire to avoid using money to further their objectives. QCC further benefited from incorporating a structure that organically added money to the co-op's reserves by utilizing share loans and regular rent payments. HUSK had the least access to funding structures, only beginning to fundraise after more than two years of existence (Emily 2023). QTL, on the other hand, was able to accumulate some amount of funds from the donation and fundraising structures it had established as the product of existing nonprofits. Even with these structures in place, QTL still relied upon grants from the City of Seattle to achieve its goals.

This leads into the second point, regarding the level of government involvement. While QCC has potentially had the greatest amount of interaction with government agencies and elected bodies, I argue that its relationship with local government has been pri-

marily as a change agent rather than a collaborator or aid recipient. QCC's most notable government interaction was to change local zoning laws, and it has otherwise met its needs mostly without seeking municipal support (with the notable exception of its current discussions with CHFA). Such disconnection from government may be achievable only by organizations like QCC who possess considerable wealth or organizations like HUSK who practice radical anarchistic strategies. HUSK is the only of the three organizations who could potentially be said to have had no connection with government whatsoever, which (as discussed previously) provides greater freedom and fewer funds. QTL has likely had the greatest amount of reliance on government as demonstrated by the importance of the grant received from Seattle. Though not governmental, QTL has also tied itself more closely to third-party organizations, such as the Evergreen Land Trust, than its two fellow collectives. Given that the money from the city appears to have been a one-time payment with restrictions that fell within QTL's existing mission objectives, its relationship with ELT has the potential to be more limiting than its use of government funding—though the details of the relationship between QTL and ELT remains largely unknown based on available sources. In summary, analysis of these case studies indicates that government involvement is likely necessary for organizations who do not fall on the financial fringes like QCC and HUSK, but municipal funding may not come with as many drawbacks as some more anarchistic groups fear.

Finally, perhaps the most obvious dissimilarity between the three case studies is the organizations' different structural approaches to providing collective housing. Namely, the three structures are: (1) QCC's limited equity cooperative, reliant on share loans; (2) QTL's more traditional nonprofit structure, reliant on community land trusts; and (3), HUSK's mutual aid structure, reliant on the collective power of individuals. Analyses of these structures are similar to observations made previously: QCC's LEC structure is possible only with significant front-end funding, HUSK's mutual aid structure necessitates strong relationships and collective dedication, and QTL's CLT offers a middle ground whereby a moderately funded organization may be capable of purchasing an expensive property. There are benefits and drawbacks

to QCC's and HUSK's methods, and neither offers a clear strategy or structure that an average nonprofit organization could follow successfully. Therefore, greater attention will now be paid to QTL's community land trust structure as it bears the greatest potential for usefulness to the project of this paper.

## Community Land Trusts

This paper has identified two potential legal structures for collective housing: community land trusts and limited equity cooperatives. Many collective housing organizations, like QTL, utilize CLTs to make their vision of affordable collective housing possible. However, QCC has successfully leveraged the LEC model popular in New York City to create a groundbreaking social living model in Denver. QCC is also exploring new avenues to utilize government-subsidized share loan financing via CHFA, which could increase cooperatives' abilities to implement an LEC. Despite this, the amount of initial funding necessary to establish an LEC remains considerable, and Polk has indicated that the legal landscape in Colorado may still not adequately support LECs (Polk 2023). As such, LECs remain an unstable and minimally tested structure in Denver. Until LECs are proven to be an effective, replicable strategy in the area, this project shall continue under the assumption that CLTs are the more viable of the two options.

CLTs are nonprofit organizations that own the land on which a collective living home sits (NCLTN 2018). The CLT is then able to sell the home to a buyer for less than the market cost of the whole property because the buyer is acquiring only the building, not the land. The buyer, now a homeowner, then leases the land from the CLT in a renewable lease, typically for decades or even a century. The terms of the lease typically require that the homeowner adheres to social values prioritized by the CLT, such as maintaining low-income housing or preserving the natural environment. As such, the CLT continues to own the land and oversees the application of its mission, along with the general wellbeing of the property and its residents, via the CLT's board. Beyond stipulations for maintaining social values, a CLT (such as the aforementioned Evergreen Land Trust) typically maintains its own policies that define appropriate property maintenance, cohabitation guidelines, and other prac-

tical considerations that property residents must abide by. A CLT may be able to rescind a lease agreement if its policies are broken (ELT 2023).

The Community Land Trust Technical Manual, published by Grounded Solutions Network (a nonprofit that promotes affordable housing solutions, including community land trusts), describes what they refer to as a "classic" CLT organizing structure (NCLTN 2018). The classic model "is designed to balance the interests of individual CLT homeowners with the interests of the community as a whole" (NCLTN 2018, 8). The CLT is managed by a board of directors elected from three equal categories: (1) those living on the CLT's land, (2) other community members impacted by the CLT, and (3) public representatives elected by members or the board to represent "broader public interest" (NCLTN 2018, 8).

There are multiple ways by which a CLT can be established, such as creating a new nonprofit organization, creating a CLT program within an existing nonprofit, or an existing nonprofit establishing a new CLT corporation (NCLTN 2018). Some CLTs may even be established by local governments directly. Each of these routes has its own benefits and drawbacks. For example, establishing a new nonprofit organization is difficult, costly, and time consuming. Therefore, creating a CLT through an existing nonprofit can be faster and cheaper. However, this leaves the CLT vulnerable to the ebb and flow of its parent organization, including policy shifts, changes to less supportive leadership, and even the nonprofit's demise, all of which are likely to occur over the course of a century-long lease (NCLTN 2018).

Further, CLTs established by local governments are of two types that, again, have pros and cons. The first type is a CLT that is run under government direction as an extension of an existing program. A benefit of this structure is that the CLT maintains a direct, public income stream without the precariousness that comes with relying on grants and donations. Proponents of this method also argue that direct government oversight ensures that "resources are used responsibly and effectively" (NCLTN 2018, 11). However, a counterargument to this position is that it presents the risk that the CLT will be influenced by political motivations and left at the mercy of electoral and pol-

icy shifts. The second type of government-founded CLT accounts for this potential drawback by having the government establish an independent nonprofit to run the CLT. While this somewhat insulates the CLT from political interference, the nonprofit would still be expected to “maintain a strong working relationship with its local government” (NCLTN 2018, 11). CLTs offer numerous benefits as a mechanism to create long-term collective housing project but appear most useful when established by entities with preexisting funding sources and sufficiently scaled organizing capacity. As the QTL case study demonstrated, a CLT can significantly lower purchasing costs by enabling small organizations to purchase a home for a fraction of the cost of the full property, but only with the assistance of an existing land trust from which to make the purchase. A CLT can further offer a level of autonomy and democracy to residents and community members that varies according to the nature of the CLT. For instance, a CLT managed by a fully independent nonprofit that was created solely to establish the land trust presents the greatest amount of autonomy, a CLT managed by an existing nonprofit subjects the CLT somewhat to the motivations and priorities of that nonprofit, and a CLT funded and overseen directly by a municipality is likely the least autonomous form this type of land trust can take. The level of autonomy somewhat dictates the amount of time, effort, and resources required to create the trust—creating one’s own nonprofit is difficult and expensive while utilizing government funding is efficient but restrictive.

## Conclusion

The case studies assessed in this paper offer valuable insight into the process of establishing and managing collective housing. Each organization shared key similarities, such as member and ally experience in collective living and/or nonprofit law, further leveraging strategic relationships, and employing creative legal and structural solutions to overcome barriers. The methods utilized by each organization and the resources at their disposal differed greatly, and their respective tools and techniques varied in kind. Particularly, the broad structures of the three projects reflect the objectives and circumstances of each organization. The organizations advocating the most radical goals and sitting at either the extreme high or low

end of the financial spectrum (i.e., the independently funded QCC seeking to decommodify housing via limited equity structures and the minimally funded HUSK aiming to promote anarchist principles using a system of mutual aid) had, to a degree, more freedom of independence than organizations with ambitious but measured goals and existing but moderate finances (i.e., QTL, who share similar values to the other two organizations but appear more willing to work within existing structures). While the efforts of QCC and HUSK appear to be effective applications of the available resources and strategies in their setting, they do not reflect an accessible, easily replicable model. Conversely, QTL presents a more common example of existing nonprofits leveraging internal, governmental, and third-party resources and relationships to accomplish goals that are ambitious and radical, but also achievable and realistic for its scale. While lessons should be taken from all three case studies, QTL offers the clearest guide for how a similar collective housing project could establish itself in Denver, a city similar in population and political landscape to QTL’s home of Seattle. As such, the remainder of this article shall outline a rough, broad-scale plan for establishing collective housing in Denver, utilizing data from each case study but relying most heavily on the strategies of QTL. Areas for further research shall be identified, as well as potential barriers and solutions.

The first key takeaway to note from the case studies is the importance of both establishing avenues for funding and ensuring leaders, members, and allies possess suitable experience regarding collective housing and nonprofits. This article’s research indicates that inexperienced or under-resourced groups or individuals are unlikely to succeed at establishing a project as ambitious as social housing. Unless independent means of funding are established, subject to the additional requirement of recruiting experienced individuals, establishing a new nonprofit independent of an existing organization is not realistic.

Therefore, one of the first steps for a collective housing project must be to network and ally with nonprofits in the Denver area. This could lead to an existing nonprofit undertaking the proposed project or facilitating the creation of a new nonprofit. Identifying potential ally organizations in Denver is thus an important research point. At time of writing, likely allies

identified during this research include QCC and The Globeville, Elyria-Swansea (GES) Coalition Organizing for Health and Housing Justice. The GES Coalition is an organization based in Denver's northern GES neighborhood that is utilizing a community land trust model to provide affordable, but not communal, housing in the area (GES Coalition n.d.). Stephen Polk of QCC actively recommended GES Coalition as a potential ally due to their familiarity with community land trusts as a housing strategy (2023).

As discussed previously, community land trusts present one of the most effective means for establishing collective housing. While they by no means eliminate costs, they have the potential to make purchasing sizable property in Denver an accessible goal for a modestly funded organization, provided it maintains further connections with additional organizations that can provide financial and organizational support, such as an existing land trust. This project has identified two primary land trusts in Denver: the aforementioned GES Coalition and the Colorado Community Land Trust (CCLT), which is merged with Habitat for Humanity of Metro Denver (GES Coalition n.d.). The ability or willingness of these organizations to directly fund or otherwise support a collective housing project is unclear, but they remain relationships worth exploring.

In the likely event that an existing land trust is unable or unwilling to facilitate the purchase and management of a property, a new CLT nonprofit organization may need to be established. Given the limitations to creating a new, independent nonprofit, establishing a CLT as an extension of an existing nonprofit is a more realistic strategy. Creating a CLT in this way presents drawbacks and risks. The housing project would rely on a current nonprofit to sufficiently prioritize the CLT in a way consistent with its initial goals and values and to remain in existence long enough for the CLT to provide meaningful, long-term housing. Despite these factors, the importance of working within strongly organized, well-funded structures of individuals with relevant skills and experience cannot be overstated. Succeeding at such an intensive project without these resources is highly unlikely such that sacrificing some amount of independence, control, and stability appears a necessary sacrifice.

Once the groundwork for a CLT has been completed, a property may then be purchased. However, this step presents a significant barrier, namely Denver's zoning laws limiting non-family cohabitation to five unrelated residents. While QCC successfully raised the prior limit and have identified means of subverting the revised restrictions for their benefit, Denver's zoning laws remain a problem for new housing organizations.

There are two potential solutions to this barrier, both of which accompany additional issues: (1) lobby to further lift Denver's housing restrictions beyond the increase obtained in part by QCC or (2) identify means of working within the five-resident limit. If one elects to pursue the second option, there are three ways to proceed: (a) identify legal loopholes to Denver's zoning laws, should they exist; (b) purchase a property and work within the five-resident cap, in spite of its limitations; or (c) purchase multiple properties that each house up to five residents. The first option, as demonstrated by the years-long process undertaken by QCC, is extremely time- and resource-intensive and is not guaranteed to succeed. While increasing resident limits in Denver should likely be a long-term goal for this project, it would be unreliable to depend on changing municipal law prior to moving forward. The viability of option 2a (exploit legal loopholes) is beyond the scope of this paper and would require legal consultation to pursue, though QCC's prior exploration of legal means for collective housing would suggest that such loopholes likely do not exist. Option 2b (work within the five-person limit) requires the least time, effort, and resources, but does not rise to the initial scope inspired by the ballroom movement. However, it could be a jumping-off point for option 2c (acquiring multiple properties). Purchasing multiple properties would require significant funds, but successfully buying and managing one collective housing property could draw funding for future, connected projects. Furthermore, collective housing organizations currently exist that have grown to directly own and manage multiple properties.

One such organization is Kalamazoo Collective Housing (KCH) in Kalamazoo, Michigan. KCH is a housing cooperative that touts a mission of collective-ownership, though due to limited public information, the precise nature of its ownership structure is unclear

(KCH n.d.). The organization owns at least six collective living properties, ranging from shared homes to separate apartments. Funding for KCH's multiple properties comes partially from grants, but primarily from membership dues (Wedel 2022). While too little information is available to take KCH as a replicable model, its existence proves the potential efficacy of a multi-property strategy. As such, a future research point for this project should be to explore the ability for a nonprofit to purchase more than one property of relatively moderate size and price to subvert Denver's zoning laws. Given funding restrictions, the most likely process is to begin by purchasing a single property and then—assuming its success—capitalize on the achievement through fundraising and networking that can be leveraged to purchase one or more additional properties.

In summary, case study analysis indicates a general path toward establishing collective housing in Denver. First, one must form relationships with existing nonprofits and individuals in the area who are experienced with collective housing structures and have established reliable sources of funding. Potential allies include Queen City Collective, the GES Coalition, and the Colorado Community Land Trust. Second, these relationships must be leveraged to create a community land trust, most likely formed by or as part of an existing nonprofit. Networking with groups who have already used a community land trust model, such as GES Coalition, will be vital. Third, this land trust should then be utilized to purchase at least one moderately sized property to house five residents in accordance with Denver's existing zoning restrictions. Finally, the assumed success of this housing project should then provide the groundwork to add further properties and create a network of collective living homes.

During this process, a lobbying campaign should be undertaken in parallel to raise Denver's non-family resident restrictions. Since such a campaign is likely to be long, arduous, and with high risk of failure, the primary collective housing project must not await its conclusion. However, if or when Denver's zoning laws are reformed, collective housing will become considerably easier to enact as a widespread housing solution both by this project and others. A lobbying campaign must, therefore, be an essential aspect of

any project aiming to expand collective housing solutions as a long-term strategy in Denver.

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# Why Americans Should Care About Defense Privatization

Joseph Adolfo

**Abstract:** *Within the United States, there has been a recent push to address fraud, waste, and abuse, and to cut taxpayer burdens relating to government expenditures. With defense expenditures taking up a significant portion of the United States' federal spending, it is unusual that defense sector privatization is not under greater scrutiny. This paper attempts to shed light on why the push was made for the U.S. and why Americans should show more interest into this push. Hybrid Rule Theory is examined and demonstrates that the U.S. utilizes privatization in this sector to enable greater executive control and autonomy, rather than afford cheaper and higher quality defense procurement. A theoretical overview is provided of Hybrid Rule Theory before examining areas often cited for privatization, including examining the execution of privatization and the economics of privatization. Rather than save money and ensure higher quality engineering and procurement of the defense sector, evidence is provided showing that privatization is likely more expensive and has instead led to a decline in innovation and execution of American foreign policy relating to defense. Furthermore, given that privatization under Hybrid Rule is less transparent (due to being proprietary) and relies less on congressional oversight, it is posited that this is likely eroding democratic norms within the U.S. and strengthening the executive presidency. Indicators and evidence are provided displaying the possibility of this erosion but, to date, an insufficient amount*



## Introduction

Modern defense privatization is a phenomenon that appears to be unique within the United States. While citizens may question the roles undertaken by defense contractors and be suspicious of misconduct, the negative long-term effects of privatization are rarely discussed as national defense is generally considered to be a public service. In this essay, I engage the following question: Why should Americans care about defense privatization? I will do so by drawing

on the existing defense privatization literature to explore how this shift from the public to the private sector concretely impacts American lives, economics, and values.

## Theoretical Overview

Hybrid Rule Theory offers a nuanced approach, significantly contradicting the academic norm of simply citing neoliberalism as a cause for the current push toward privatization of national defense within the U.S. (Abrahamsen & Leander 2016; Beasley 2019; Mahoney 2021; Steinbock 2014; Swed & Crosbie 2019; Walker 2010). The central argument of the theoretical framework of national privatization of defense is that the shift was not caused by neoliberalism in the late 1970s, but rather by national security concerns that emerged after the government—particularly the executive branch—faced a legitimacy crisis in the late 1960s and early 1970s. In response, the govern-

ment turned to neoliberal initiatives and privatization as a solution. (Hurt & Lipschutz 2016). Hybrid, within this context, explores the implications of a public-private partnership and a partnership deliberately orchestrated by a ruling political elite. In other words, officials viewed neoliberalism as an economic solution to a pressing political problem. Specifically, that “a set of practices deployed by political elites [relied] on the private sector to shield national security activities by expanding state power [and constrained] democratic accountability. This Hybrid Rule strategy seeks to safeguard the state’s legitimacy through valorization of the market as a primary mechanism in pursuit of myriad political obstacles” (Hurt & Lipschutz 2016).

This differs from previous research (Abrahamsen & Leander 2016; Beasley 2019; Krahmann 2010; Mahoney 2021; Steinbock 2014; Swed & Crosbie 2019; Walker 2010) as Hybrid Rule cites political elites as key actors, rather than the private sector driving the push toward privatization of defense. Obscuring political accountability and transparency under the Hybrid Rule Theory is the key point. Following the political upheavals of the 1960s and the U.S. increased opposition to foreign wars, political elites (from both sides of the aisle) sought a way to maintain security objectives without political capital loss. Historical events to defend this premise are utilized to support this theoretical framework, such as Nixon’s cessation of the national draft (appeasing the middle-class protests, which were increasingly viewed as threatening to political elites) while relying on the private sector to increase research and development efforts into biological warfare (Hurt & Lipschutz 2016).

This key restructuring enabled a shift from a military-university partnership, popular within science, technology, engineering and mathematical (STEM) fields following World War II, to an industry-university partnership that would later be exponentially increased by neoliberal economics (Hurt & Lipschutz 2016). The important factor is this enabled the government to immediately maintain oversight of Department of Defense (DoD) interested sectors (such as molecular biology) amid increasing economic pushback. By moving into the private sector and changing what was formerly ‘classified’ to ‘proprietary,’ this allowed for less visibility in a post-Viet-

nam era since the state no longer directly controlled these fields (Hurt & Lipschutz 2016).

### Privatization in Execution

What is truly interesting in the study of defense privatization within the U.S. is the sheer amount of evidence available indicating that in execution, the private sector fails to meet the same standards as the public sector would hope to maintain (Abrahamsen & Leander 2016; Beasley 2019; Hurt & Lipschutz; 2016; Krahmann 2010; Mahoney 2021; Steinbock 2014; Swed & Crosbie 2019; Walker 2010). This foundationally is created by the inherent differences between public and private provisioning. “A public good is characterized by being nonexcludable; that is, everyone can consume it. A private good in contrast, is by definition excludable and cannot be enjoyed by everyone” (Dunigan & Petersohn 2015).

This has led to observed failure in establishing legitimacy in U.S. foreign military interventions with examples provided from the recent Iraq and Afghanistan campaigns. Rather than the U.S. intervening to provide the public good of safety for the Iraqi or Afghani peoples, private defense companies were incentivized to prioritize profits and ultimately led to fulminating counterinsurgencies within both states and damaging American legitimacy (Dunigan & Petersohn 2015).

Legitimacy, in this context, can be defined as “an assumption or perception that something is “desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Swed & Crosbie 2019). In Afghanistan in particular, American private security company usage led to a “key concern raised by Afghan officials...with the difficulties differentiating between PMSCs [defense contractors], military personnel, and illegal armed groups” (Swed & Crosbie 2019). Despite the mission of the American military forces to positively influence the civilian population in Iraq and Afghanistan, contractors were found to “prioritize the provision of security to their client-the person or organization providing their revenue-above the security concerns of other actors in the operating environment, including civilians, other PSCs [Private Security Companies], and state-based security forces” (Dunigan & Petersohn 2015).

Hybrid Rule Theory accounts for this occurrence, and lack of visibility, by showing that “the splitting of the hybrid into its constitutive parts conspires with the picture of military markets providing a ‘supply’ of services in response to a given ‘demand’ to allow the politics of hybridity to escape attention” (Hurt & Lipschutz 2016). Public good for Americans (and more importantly in foreign policy) is shifting from a public good to a sheer economic principle based on supply and demand with little to no public visibility. This explains why in 2007, despite the increase in U.S. military intervention in Iraq and Afghanistan, defense spending and armed forces personnel decreased with private defense contractors obscuring the actual expenditures and personnel involved within both theaters. In short, Americans are not clearly being told how defense privatization is affecting the execution of interventionist foreign policy, with initial data providing damning examples of how contractors are able to improperly promote American interests internationally (Dunigan & Petersohn 2015, Hurt & Lipschutz 2016, Swed & Crosbie 2019).

### Economics of Defense

Economic expenditures on defense contractors is a common and well-tilled area of study for defense privatization within the U.S. (Abrahamsen & Leander 2016; Dunigan & Petersohn 2015; Hurt & Lipschutz, 2016; Krahmann 2010; Mahoney 2021; Steinbock 2014; Swed & Crosbie 2019). For one, economic accountability is usually cited as being more difficult to determine. “One of the foremost problems of recent transformations in civil-military relations has been the negative impact of military outsourcing and privatization on public information and parliamentary [congressional] control over defence [sic] spending...” (Krahmann 2010). The government simply lacks the ability to effectively analyze and assess defense contracts; the prolific usage of contractors in recent history has made this all but impossible. “[T]he vast number of private sector personnel, their cost, and regulatory vagaries complicate officials and lawmakers’ ability to oversee and evaluate” these companies (Abrahamsen & Leander 2016).

This issue is made worse due to a large portion of defense contractors within the U.S. being prior military and government employees who were trained at the

expense of the public. “Private military contractors are parasitic in that their highly skilled employees are veterans whose expensive training was paid for by the governments in whose militaries they served before leaving for private firms” (Swed & Crosbie 2019). These employees transition from public service to private companies which “only repackage the expertise, services and weapons that have been already produced by the[ir] specific nation-states” (Swed & Crosbie 2019). The expenditure of training costs regarding public-to-private hiring is nearly impossible to regulate or assess.

Second is the lack of evidence of supposed savings from privatization (Abrahamsen & Leander 2016; Hurt & Lipschutz, 2016; Krahmann 2010; Mahoney 2021; Steinbock 2014; Swed & Crosbie 2019). This was apparent preceding the invasions of Iraq and Afghanistan in 2001 as “it had become clear that public-private cost comparisons and outsourcing were not producing the projected military budget savings” (Krahmann 2010). Ten years later this had not changed: “The congressionally created bipartisan Commission on Wartime Contracting in Iraq and Afghanistan estimates that between a sixth and a third of the money spent on private contractors...was lost to ‘waste and fraud’ as of mid-2011 and ‘predicts that many programs, projects, and contracts...will reveal even more...’” (Swed & Crosbie 2019).

This is not localized to only the campaigns in Iraq and Afghanistan. “Army contract managers estimated that “KBR’s [Kellogg Brown & Root, Inc., a PMSC] work in Central Asia...cost 10 percent to 20 percent more than if military personnel were used” (Beasley 2019). This trend is not likely to shift. Contractors that faced government scrutiny following the invasion of Iraq, the “general lesson for private military contractors was that if auditors did not discover a company defrauding it, the company would receive full payments; if discovered, it would merely have to refund the excess charges without fear of further consequences” (Krahmann 2010). The increasing difficulty of oversight will likely lead to this becoming more problematic in the future.

In the intelligence field in particular, “[c]ritics presume (and insiders confirm) that the fragmented and compartmentalized structure of the US intelligence

community leads to wasteful duplication of effort and a lack of coordination” (Abrahamsen & Leander 2016). Hurt & Lipschutz provide an explanation for this phenomenon without discussing the fraud and waste, nor the increased government responsibility to regulate and assess the private industry by identifying the norm of neoliberal bureaucratization. This norm prioritizes efficiency, professionalism, and documentation to justify to the public sector (similar to how the private sector self-regulates) all decisions rather than explicitly focusing on economic savings (Hurt & Lipschutz 2016). This reinforces the need to “[b]ring the environment of economic actors into line with the rules of the market”, providing justification for interventions internationally while reinforcing executive and political elite power under the Hybrid Rule (Hurt & Lipschutz 2016). While Americans are not being given an accurate picture of how private defense contractors are impeding defense execution, it is also abundantly clear that the savings perpetuated by politicians and elites within the U.S. have not materialized.

### Democratic Erosion

The last key takeaway of why Americans should care about defense privatization is how this phenomenon erodes democratic norms. The impacts of defense privatization, “particularly as it pertains to the transformation of politics, paradoxically remains unseen” (Hurt & Lipschutz 2016). This is largely due to the amount of data the government and the private sector can obscure, or outright hide, under proprietary information and classification rhetoric. For example, “[m]ost intelligence contracts are classified, and even non-classified contracts are often withheld from public disclosure” (Abrahamsen & Leander 2016). National defense firms within the U.S. wield considerable power, which has led to increasing amounts of sole-source selection decreasing competition within the industry (Krahmann 2010).

Even the definitions for executive or government functions are “ill-defined and contentious...providers have a financial incentive to explore ethical grey areas and press legal boundaries” (Abrahamsen & Leander 2016). An early example of this reluctance to define terms can be seen during the Clinton administration where Secretary of Defense William S.

Cohen advocated for privatizing the defense sector to allow the U.S. military to focus on its core functions. “However, Cohen omitted to elaborate what these core functions were that would be exempt from market competition” (Krahmann 2010).

This ambiguity includes an ongoing trend of outsourcing traditional military roles to the private sector. For example, the shift in military logistical outsourcing (largely observed as a military function), to KBR during the Global War on Terror after the September 11, 2001 terrorist attacks (Beasley 2019). To Americans it can be unclear what services belong inherently to the military and what has been (or should be) outsourced to the private sector.

This issue has led to increased executive autonomy and government-industry collusion with decreases in public outcry and scrutiny (Krahmann 2010). This coincides with a blurring of lines between private and public information, and the increasing role of state surveillance dismissing “any purely civilian or private-personal sectors in the world’s capitalist societies, these [sic] have now been merged with the world’s military, policy and intelligence systems” (Hurt & Lipschutz 2016). This shift has wide repercussions with how the U.S. government begins to interface with its citizens. Dissenting individuals, may be monitored or detained as this “is done in the service of economy and security is being done because it can be done, by those whose jobs it is to collect, mine, analyze, process and manage...what we have is government(al)ity through endless, infinite war, without politics, people, states or corporations” (Hurt & Lipschutz 2016).

While surveillance of dissenting or disruptive citizenry is not a new concept, what is novel is the increased reliance on the private sector to provide this surveillance and the focus on economic stability that aligns with the private sector at the expense of the public. “Terrorist attacks and the use of weapons of mass destruction are unlikely to cause massive casualties among Western populations and are feared primarily because of their potential impact on economic stability and the Western ‘way of life’” (Krahmann 2010). Some Americans may find themselves under scrutiny not just from the government but from the private sector as well. Foreign policy is being influenced by

the private sector's focus on economic stability rather than by credible threats to the Americans.

This "governmentality" establishes a strong central state "but also renders representative institutions less important" (Hurt & Lipschutz 2016). The executive branch and its agencies within this new governmentality are more powerful while providing the least insight and accountability. Public transparency and representative institutional oversight due to increased reliance on private defense contractors, "have declined because of off-the-book accounting of PFIs [Private Finance Initiatives], the lock-in of future budgets due to long-term contracting and the confidentiality of government-industry contracts" (Krahmann 2010). Note that under Hybrid Rule Theory this is intentional. The erosion of representative democratic institutions allows for continued legitimacy and strengthening of political elites and the executive branch.

What is clear and concerning for Americans is how powerful the executive branch has become at the expense of more representative institutions, such as Congress. The intention to hide from the people the impacts privatization is clear. While there is a lack of scholarly research and data to quantify the impact on U.S. democratic institutions due to defense privatization (Abrahamsen & Leander 2016; Krahmann 2010; Hurt & Lipschutz 2016; Swed & Crosbie 2019). It is evident that this is an area worth future study to better educate Americans.

## Conclusion

While misconduct and economic shortfalls are commonly cited, the impact on democratic institutions due to defense privatization within the U.S. remains poorly researched. I believe Americans should care about defense privatization and why this phenomenon warrants additional research and exploration. Utilizing the Hybrid Rule Theory indicates how privatization is negatively affecting the U.S. in specific areas of military execution, the economy, and democratic institutions, while existing literature supports this theory. This remains an important issue to U.S. citizens and possible significant future implications.

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