



# THE SOCIETY

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# Acknowledgement

Dear Readers,

We are honoured to present you with the third volume of *The Society: Sociology and Criminology* undergraduate review journal. The Society aims to gather and display the exceptional scholarly contributions of sociology and criminology undergraduate students at the University of Toronto Mississauga. The Society is assembled by a group of student managers, editors and authors, who are greatly assisted by faculty members Professor Innocente and Professor Baker, as well as faculty liaison Professor Klassen.

We would like to thank and acknowledge all who have contributed generously to the establishment of this journal.

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We thank you for picking up a copy of this journal and perusing through the academic work of these students. We hope that you enjoy navigating this journal and reading some of the best works that our Sociology and Criminology Undergraduate students have to offer.

# Youth Suicide in Custody

by Maryam Faisal

## ABSTRACT

This paper delves into the research surrounding youth suicide in custody amongst young Aboriginals. While there is considerable acknowledgement of and focus on Aboriginal suicide within and outside of custody, the solutions often found by policy makers focus on psycho-centric factors. These solutions range from recognizing the presence of mental illness before custody to increasing staff training and creating more suicide-prevention programs. However, they only focus on the individual's mental illness without considering the context of larger socio-political realities that are extremely present and influential in the incarceration of Aboriginal youth.

Youth suicide in custody is prevalent amongst Aboriginals who, compared to non-Aboriginals, receive longer sentencing for the same offences and often put into solitary confinement or over-crowded prisons. Their concerns are often disregarded as is found in the case of two teenage girls who died by hanging in Manitoba Youth Centre. Aboriginal youth are often removed from their communities to be placed in youth centers and prisons, which then contributes to their greater sense of alienation from both their colonizers as well their own communities. There is often a disregard for the principles outlined in the Youth Criminal Justice Act declaration and policy makers are not focusing on a lot of the reasons such as the intergenerational effects of imprisonment. Aboriginals are dying by suicide in prisons. It is not enough to say Aboriginals are over-represented in prisons and juvenile detention centers. Rather, the following must be asked: what are the social structures that make them more at-risk to committing crime and what can be done to help them instead of dehumanizing them.

The Canadian Youth Justice System should focus on incorporating Aboriginal communities into the rehabilitation of their youth instead of viewing them as individuals who have "deficiencies" (Guy 2016) and suicide as a failure of not being able to overcome them.

## IDENTIFICATION OF THE PROBLEM

Youth suicide in North America has been on the rise and is considered a "major public health problem" (NCCHC). Amongst 10-14 year olds, it is the third leading cause of death. Moreover, youth in the Youth Justice System are more likely to display risk factors for suicide. Not only is it a cause for major outcry in North America but it has provoked international responses too. In 2015, *The Guardian* reported that prison suicides in England and Wales rose to a seven year high with 82 deaths by suicide (Travis 2015). There has been a lot of research into the issue of suicide in custody across all inmates. A research conducted by the University of Manitoba found that youth, aged 12-18, were more likely to self-harm in the first 90 days of custody (Casiano et al 2016); this may be because the first few days of custody is when the reality of their situation is the most traumatizing and shocking. The World Health Organization identifies that most suicides occur when inmates are segregated from fellow inmates and staff (World Health Organization 2007). More importantly, this is an issue within Indigenous communities across Canada. Only a couple of weeks ago, CBC reported the worry and anxiety that

overwhelmed Indigenous communities – namely, Stanley Mission, Deschambault Lake and Makwa Sahgaiehcan First Nation – after the suicides of three 12-14 years old girls that occurred very close together in Saskatchewan (CBC 2016). While the suicides did not take place in custody, CBC reported that 45% of all self-harm incidents in custody were Indigenous offenders (Harris 2012). Moreover, one-third of 30 inmates from 2011 to 2014 who died from suicide were Aboriginal (CBC 2014).

This insinuates that it is a growing problem but policy makers are not responding with the kind of shift that is urgently needed. The restorative, rehabilitative system shifted to a tough on crime system that was committed to create this “punishable young offender” (Hogeveen and Minaker 2008). Although it included the creation of more crime-prevention, community-based programs, providing proper suicide prevention strategies did not consider the socio-cultural factors at play. The issues also come with focusing only on psycho-centric factors and not socio-cultural factors (Gray 2016). A lot of critique found in research is towards a psycho-centric view on death by suicide within youth prisons and a major factor overlooked is the rise of cost-effective prison systems that work harder to make profit than to rehabilitate youth who are at risk, whether in custody or on probation. No doubt, the prevalence of prior mental health problems does increase the risk of suicide after arrest but that is a narrow, individualistic way of analyzing youth suicide in custody. It removes the responsibility away from guards, counsellors, nurses and directs all blame onto the young offender whose pain is labeled “self-induced” (Guy 2012). The quality of prisons (Bonta and Gendreau 1990) coupled with psychosocial factors, systemic racism due to colonialism and differences in sentencing (Guy 2012) (Foss and Latimer 2004) (Casiano et al. 2016) all contribute to increased youth suicide in custody.

There are multiple psychological causes of youth suicide in custody such as mental illnesses existing prior to detainment, bullying within prisons, previous substance abuse, poor living conditions but these individual realities are looked at without adequately analyzing the structural socio-political, socio-economic realities that induce such individual horrors (Hogeveen and Minaker 2008). Will the Criminal Justice System see lower rates of adolescent suicide in custody just by increasing surveillance and training staff as some of these researchers suggest? (Olson 2012; Guy 2012; Kiriakidis 2008).

Under the Conservative government, Corrections Canada looked to trim \$295 million even though prison population increased and resources were already scarce (Paperny 2012). They closed Kingston Penitentiary as well as Leclerc Institution which saw a loss of 1,000 beds but Public Safety Minister Vic Toews said it would “save Ottawa \$120-million annually” (Paperny 2012). They stopped prioritizing rehabilitation and focused on furthering governmental interests.

## **IDENTIFICATION OF VALUE CRITERIA OR IDEOLOGICAL PREMISES**

There is a race bias in these policies. While they claim to integrate community-based reintegration programs and encouraging communities to also take responsibility for youth offenders, Indigenous youth are more removed and marginalized from their communities thus resulting in deep feelings of isolation (Guy 2012). According to research conducted by Foss and Latimer (2004), “median sentence length for Aboriginal youth (90 days) is three times the median sentence length for non-Aboriginal youth (30 days)” (21).



Additionally, as mentioned above, over-crowding is a major factor in causing people to die by suicide as that increases chances of violence, aggression and worsening of mental health. The budget cuts made by Harper's government are a result of managerialism (Muncie 2007). This means that the purpose of Harper's tough-on-crime stance did not only increase the risk of suicide amongst youth inmates but also emphasized that his government did not concern itself primarily with the well-being and reform of youth offenders. The Harper administration's primary concern was with implementing the most cost-effective and efficient policies.

It is now commonplace to accept that since the 1960s, penal-welfarism has been systematically undermined by the development of forms of neo-liberal governance. Neo-liberal governance has been broadly characterized as placing less emphasis on social contexts, state protection and rehabilitation and more on prescriptions of individual responsibility, an active citizenry and governing at a distance (Rose, 1996b). This was the case in Guy's re-examination of the inquest into C.B and C.J's suicides.

The YCJA states in its declaration of principles that "within the limits of fair proportionate accountability, the measures taken against young persons who commit offences should: [...] (iii) be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration and (iv) respect gender, ethnic, cultural and linguistic difference and respond to the needs of aboriginal young persons and of young persons with special requirements" (Roberts 2004). However, when examining the inquest into the deaths by suicide of C.J and C.B, it hardly aligns with the promises of the YCJA Declaration (Gray 2016). Both Indigenous adolescent girls died by hanging themselves within six months of each other at the Manitoba Youth Centre (Gray 2016). In the case of C.B, shortly before she was found hanging, she had asked the staff at MYC to "place [her] in the observation unit" but her plea went unheard. The staff at MYC failed to respond to the needs and self-assessment of C.B and then deemed her and C.J as falling victim to their "individual deficiencies," thus removing any responsibility from the social structures surrounding their imprisonment and subsequently, death. Similarly, in 2007, the New York Times Editorial Board published a blog that highlighted the disregard towards inmates' self-assessment. A young male inmate named Kirk requested not to be alone because of this anxiety and although there was a policy in place requiring one-hour checks, Kirk was kept alone in solitary confinement for two and a half-hours, resulting in his death by hanging (2007). Under the 'Mitigating and Aggravating Factors' section, it states, "(b) a sentence should be similar sentences imposed on similar offences committed in similar circumstances"; again, this does not correspond with statistical evidence. Aboriginal youth face longer and harsher sentence in proportionate to their crimes (Foss and Latimer 2004). For more than half of the crimes, Aboriginal faced longer sentences than non-Aboriginal youth (Foss and Latimer 2004). Although the number of Aboriginal youth in youth custody facilities is a lot lesser than the number of non-Aboriginal youth, Aboriginal youth are statistically over-incarcerated when compared to the whole Aboriginal population. For serious offences such as serious sexual assault and violent offences, the median sentence length was 70-100 days longer for Aboriginal youth than non-Aboriginal (Foss and Latimer 2004).

The policies that youth suicide is prevalent under were originally created to deter crime and reduce the risk of recidivism. However, this tough-on-crime agenda has many implications. Firstly, it targets marginalized groups like Aboriginal youth more as racism, poverty, education and unemployment and barriers to opportunities put them at a higher



risk of falling into crime and deviance. Secondly, in the Youth Criminal Justice, there is a rehabilitative approach but it is also easier for youth to get adult sentencing for serious crimes. Thirdly, it also comes from a neo-liberal approach where individual responsibility is emphasized greatly and reducing the cost of government run structures. Lastly, over-population due to cost-effective managerial practices causes bullying, aggression and self-harm within prisons.

## ASSESSMENT OF THE ALTERNATIVES

There are many common alternatives across the literature. A number of articles and research suggested better mental health facilities, and improved conditions of confinement which would include allocating more resources towards prisons (Harris 2012; Kiriakidis 2008). Additionally, there was mention of keeping solitary confinement as a last resort for those suffering with mental health illnesses or those who are at risk for suicide and self-harm (Harris 2012) (Kiriakidis 2008). Latimer and Foss report on conducting a 'Sharing Circle' to better understand the experiences of Aboriginal youth in custody. It is crucial to remember as mentioned by Gray (2016),

The narrow scope of the inquest as required by the legal framework in which it is undertaken is ahistorical and ethnocentric, and strategically disregards the history of settler-colonialism and its ongoing manifestations. The inquest recommendations failed to acknowledge that systemic oppression has affected the communities the young women come from. The inquest as a tool of inquiry does not seek to disrupt colonialism and Eurocentric institutions, nor does it interrogate the mechanisms of psychiatric intervention. Rather the inquest is a method of colonial governance resulting in the further extension of state regulation of Indigenous bodies. As Razack notes "in a more sinister way, we also learn that when death comes to Indigenous people, no one is to blame and thus no one can be called into account" (2015, p. 9), except for themselves (Gray 91:2016).

It is a privileged outlook to view the experiences of Aboriginal youth in a vacuum. Their experiences exist within the context of colonialism, racism and a continuous denial of opportunities such as education and employment. Conditions within Aboriginal communities have been constructed in a way that forces youth to respond with crime and deviance. They feel alienated within colonial prison structures with many reporting racist comments made by criminal justice professionals (Foss and Latimer 2004). Not only were they dehumanized when white settlers colonized their land, they are continuously dehumanized within the criminal justice system by not being allowed to use the bathroom, longer sentences for the same offense as a non-Aboriginal, made to feel unworthy of getting treatment, being put into solitary confinement when describing suicidal thoughts (Bonta and Gendreau 1990). This in particular has a relatively more intense impact on Aboriginal youth because suicide is prevalent within their communities and not only within custody (Foss and Latimer 2004).

Neo-liberal policies have made it more difficult to access social-welfare programs and is contributing to its disappearance. One alternative policy which was only described in Gray's paper was the need to have strong Aboriginal activists and elders involved in the rehabilitation and reformation of Aboriginal youth offenders (2016). All other papers focused on increasing surveillance and training staff members in suicide-prevention techniques; while that is important, the over-representation of Aboriginal youth in

custody is an inherent problem and is leading to Aboriginal suicide in custody. According to the 'Sharing Circle,' Aboriginal youth felt discouraged from letting the staff know they were having suicidal thoughts because it would only lead to more depersonalization, confinement and losing all personal possessions. These are counter-intuitive practices if the youth criminal justice system wants to see a decrease in Aboriginal death by suicide. Additionally, Aboriginal youth are more likely to end up back in custody after probation (Foss and Latimer 2004). Some were told not to talk to members of their clan during probation which would increase the space between them and their tribe. These methods of removing Aboriginal youth from their communities is completely against the promotion of community-based re-integration programs upon which the criminal justice system wants to focus.

While a lot of the policies want to focus on staff training and increased surveillance, this fails to address the root cause. As Gray (2016) mentions, "They [the inquest] present the Indigenous psyche as something in need of repair, and settler-colonial society as both the standard of normalcy and health, and the exemplar of how these young women should learn to behave, despite the challenges posed by their backgrounds." It plays into the notion of the "Broken Indian" model posed by Chrisjohn and McKay (Martin 2014). They are labeled White-settler colonies and seen to be living in a "sad state" (Gray 87:2016), completely degrading them and avoiding critically analyzing how they reached that "sad state" of living in Northern communities that are often ignored and have a lack of rehabilitative, reformatory resources. It results in Aboriginal youth often having to be completely removed from their clans and having little to no family be there with them on trial. They are also more likely to be denied bail, often being in a position to pay the price but having no way to do it.

## RECOMMENDATIONS

It should be emphasized greatly that judges need to be held accountable for the sentences they give out to Aboriginal youth. It is astonishing to apprehend the discrepancy between median sentences amongst Aboriginal and non-Aboriginal youth. It clearly states in the YCJA that all like offenders of like offences should be given out the same sentences but that is not the case. Moreover, YCJA highlights the responsibility of the community and reduces the number of youth who are to be incarcerated [the famous You Can't Jail Anyone principle]. However, it witnessed a higher likelihood of being placed into solitary confinement amongst incarcerated youth and responding with confinement when an inmate is having either suicidal thoughts or is at a higher risk of having suicidal thoughts. It goes without saying that placing adolescent inmates in confinement to stop them from committing suicide is an illogical response. Gendreau and Bonta (1990) state that while there is hesitancy towards diversion of inmates from prisons to community programs, there is public support for rehabilitation, especially for marginalized communities whose socio-political realities are created in a way to be more at-risk. In the 'Shared Circle,' a lot of Aboriginal youth mentioned the prospect of a mentoring program, where they can meet a mentor regularly while incarcerated and upon release as well. Sometimes, a professional with a degree is not what they need. They need someone they can relate to who – Aboriginal – and someone who is responsible and respectable and wants to help. For example, one young individual said they "would like to access a mentor [...] a volunteer [...] not someone who is there because they're being paid to be with [them]" (Foss and Latimer 18:2004).

Even the World Health Organization recommends a suicide prevention program for all penitentiaries such as monitoring and sufficient mental health treatment (Olson 2012). It is worthwhile to note that the WHO, too, does not acknowledge the structures constructed to incarcerate Aboriginal youth.

I believe listening to what Aboriginal youth need in terms of their rehabilitation is something we as a society and Corrections Canada needs to work on. It is not okay that Aboriginal youth feel like their voices are being unheard in the processes of their own reformation. If societal institutions focus less on isolation, less on individual failure and more on how these systems can provide better opportunities for Aboriginal youth as outlets such as in the arts, in education and in employment, the frequency of such discussions will probably be significantly reduced.

Additionally, the “tough-on-crime” stance will result in harsher sentencing as well as more inmates; therefore, it is irrational to carry out budget cuts and reduce access to social welfare. The criminal justice system should work to stop sensationalizing our youth as being irresponsible and terrifying. We need to look behind the curtain at what is being hidden from us. Are Aboriginal youth just naturally pre-disposed to have more mental illnesses? Do they have a transcendent disposition to being more criminal than everyone else? No, it is their environment, their colonizers and their barriers to opportunities that put them at risk and by isolating them from their own families, we are increasing that alienation they already feel in a place that was taken from them.

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# Hidden Gender and Racial Biases in Canadian University Classrooms

by Maleeha Iqbal

## ABSTRACT

*Student incivility* has been defined as discourteous or disruptive verbal and nonverbal student behaviours enacted toward others (e.g. instructors, students, administrators). This study describes the experiences of student incivility in higher education for professors at the University of Toronto (U of T). In particular, how would female professors describe their experiences compared to male professors? And, how would professors of colour describe their experiences compared to White professors? Drawing from semi-structured interviews with four U of T professors, I discover that female professors as well as non-White professors may experience more student incivility than male professors and White professors. The consequences of these differences are discussed.

## INTRODUCTION

The typical representation of “bullying” often consists of a big and intimidating child threatening smaller and weaker children in a schoolyard setting. Likewise, the typical representation of “workplace harassment”—or, workplace bullying—tends to involve an authority figure misusing their position of power to intimidate or mistreat their subordinates (Lampman 2012). However, in the setting of higher education, bullying and workplace harassment can be represented in different ways (Lampman 2012). For instance, “contrapower harassment” occurs when an individual with more organizational power (e.g. professors) is harassed by an individual with less organizational power (e.g. students) (Lampman 2012). Student behaviours in higher education that fall under the scope of contrapower harassment include “disrespectful, hostile, and even violent actions aimed at faculty” (Lampman et al. 2008: 331). In particular, this form of contrapower harassment is normally referred to as “student incivility” (Burke et al. 2014: 160). Formally, student incivility has been defined as discourteous or disruptive verbal and nonverbal student behaviors enacted toward others (e.g. instructors, students, administrators). For many universities and colleges, student incivility is a major concern (Alberts, Hazen, and Theobald 2010). In the United States, the issue of student incivility has been brought to the forefront as there have been increasing reports of incivility since the 1990s, “including threatening behaviours (e.g. stalking, intimidation) and physical and verbal attacks against instructors” (Alberts et al. 2010: 439).

Many researchers have studied the causes of student incivility. These researchers have reported that factors such as situational aspects (e.g. class size), students’ behaviours (e.g. consumerist attitude), instructors’ behaviours (e.g. distanced and uncaring), and instructors’ attributes (e.g. non-White, female, young) are some of the most significant causes of student incivility in higher education (Elder, Seaton, and Swinney 2010; Burke et al. 2014; Boice 1996). However, regarding instructors’ attributes, research has been mixed. That is, although a few researchers have discovered strong correlations between



instructors' attributes (e.g. gender, race, ethnicity, age, position within the university) and student incivility (Alberts et al. 2010; Knepp 2012; Lampman 2012; Sandler 1991), other researchers have been unable to find a significant correlation (Meyers et al. 2006; Lampman et al. 2008; Bell et al. 2010). Therefore, social inequality as a cause of student incivility is still an area worth investigating.

Thus, the purpose of this exploratory study is to describe the experiences of student incivility in higher education for professors at the University of Toronto. In particular, how would female professors describe their experiences compared to male professors? And, how would professors of colour describe their experiences compared to White professors? First, I will briefly outline the literature on student incivility by presenting the types of incivility present in higher education and the types of instructor attributes—such as gender, race, and ethnicity—that have been reported to influence the frequency of student incivility experienced. I will then provide the methodology for this study followed by the findings. The paper will end with a discussion on the findings and limitations of this study, as well as some recommendations for universities on protecting minority faculty members from incivility.

## LITERATURE REVIEW

### *Types of Uncivil Student Behaviours*

Lloyd Feldmann (2001) was the first to classify the range of uncivil student actions in his taxonomy, which ranked actions as either annoyances, classroom “terrorism,” intimidation, or threats of violence. *Annoyances*, the most common type of incivility, consist of “issues of decorum or etiquette” (as cited in Burke et al. 2014: 161). For instance, arriving to class late or leaving class early; using a computer or cell phone in class for non-academic purposes; inattention due to working on assignments for another class; wearing inappropriate clothing; and talking to friends (Burke et al. 2014). *Classroom “terrorism”* consists of directly interfering with teaching. It can include distracting other students, asking questions unrelated to class topics—that is, sidetracking—or disrespecting other students’ opinions (Burke et al. 2014). *Intimidation* consists of threatening to go to the dean to complain or anonymously writing unfair negative feedback in course evaluations (Burke et al. 2014). Finally, *threats of violence*, the most severe but least frequent type of incivility, consists of physical violence towards faculty members (Burke et al. 2014)

Student incivility can also be classified as “high-maintenance students” and “challenge behaviours”—both of which can be placed in the middle of Feldmann’s spectrum of uncivil student behaviours (Burke et al. 2014). The former describes students who excessively complain about the course, course policies, and course grades (Burke et al. 2014). The latter describes students who attempt to co-create the classroom culture by forcing “unhelpful strategies” (Burke et al. 2014). There are four types of “challenge behaviours.” *Evaluation* is challenging testing methods; *procedural* is challenging course procedures; *power plays* is challenging the instructor’s knowledge; and *practicality* is challenging the significance of the course or projects (Burke et al. 2014).

### *Student Incivility and Instructors’ Attributes*

Researchers have stated that certain instructor demographic characteristics have the power to either provoke or deter student incivility in the classroom. For instance, characteristics such as gender, race, ethnicity, age, and position within the university can influence the rate of student incivility that instructors encounter (Knepp 2012; Alberts et



al. 2010). In particular, instructors who possess characteristics such as female, young, non-White, or low status (e.g. teaching assistants or lecturers) may encounter more student incivility than instructors without these characteristics (Knepp 2012; Alberts et al. 2010). After surveying young geography instructors, Alberts and associates (2010) discovered that nearly all young instructors encountered some form of student incivility in the classroom. However, they also uncovered that student incivility was encountered more frequently by certain sub-groups of instructors—particularly, female instructors. Female instructors reported experiencing incivility at higher rates than male instructors. In their study, female instructors reported students being unwilling to accept them as authoritative figures. Some female instructors also reported being treated more informally by students (e.g. being addressed by their first name rather than with “Dr.” or “Professor”) compared to their male counterparts. A concerning discovery in this study was that female instructors were much more likely to encounter the “most serious” forms of student incivility and were largely the “targets of openly hostile behaviour.” Furthermore, Lampman (2012) surveyed 524 professors from 100 post-secondary institutions in the United States and discovered that female and minority instructors as well as younger and less experienced instructors were more likely to experience student incivility. In particular, nearly 65 percent of women experienced serious incivility (e.g. “bullying, aggression, or sexual attention”), whereas 50 percent of men reported experiencing serious incivility (Lampman 2012: 184). Lampman et al.’s (2008) survey of 399 professors revealed that female instructors were more emotionally hurt by student incivility, which negatively affected their health and work.

In addition, according to researchers, non-White and international instructors encounter more student incivility than White, American-born instructors (Alberts et al. 2010; McCalman 2007; McCroskey 2002); however, the former are less likely to confront the uncivil student behaviour than the latter (Alberts et al. 2010). The systematic racism experienced by non-Whites—along with other vulnerabilities associated with their race, religion, or ethnicity—may lead non-White and international instructors to avoid confronting student incivility (Alberts et al. 2010). However, according to Alberts (2008), many international instructors are startled by North American students’ lack of discipline in the classroom and, therefore, lack the appropriate training to tackle cases of incivility in the classroom. Moreover, instructors coming from a culture in which it is not usual to confront issues of incivility in public settings may not be comfortable with giving attention to an uncivil student (Alberts 2008). Additionally, those instructors for whom English is a second-language may feel intimidated by uncivil students who speak English more proficiently than them (Alberts 2008). Still, interestingly, non-White and international instructors are less likely to experience student incivility than female instructors (Alberts et al. 2010). According to Alberts and associates (2010), this differential treatment of female, non-White, and international instructors by students is concerning as these are the very individuals who also regularly encounter other disadvantages and “unfairly weighted power dynamics in the workplace” (Alberts et al. 2010).

Female and minority faculty members may experience more incivility due to students’ perceptions (or misperceptions) of these groups (Alberts et al. 2010; Knepp 2012; Sandler 1991). For instance, literature states that poor treatment of certain instructors could be due to the “professorial stereotype” (Knepp 2012: 35). That is, students typically perceive university professors in the traditional manner: “a mature, White male with a deep voice and commanding presence in the classroom” (Knepp 2012: 38). Thus, when students meet an instructor who fails to meet this description, they resist

to obey that instructor, and therefore, are more likely to behave uncivilly towards them (Knepp 2012). Sandler (1991) addressed this stereotype in her article where she reported the experiences of female instructors. Sandler addressed the discord created by a woman's presence in a traditionally male-dominated position (i.e. professor). That is, she stated that students tend to perceive a woman's appropriate social role to be "nurturing, hesitant, and intuitive"; however, behaviours present in the classroom—such as "directness and rigor"—are traditionally associated with men (Sandler 1991: 10). Thus, Sandler labelled female instructors as an anomaly—an individual who acts not as expected and whose existence makes those around them uncomfortable. Sandler explained that female instructors' differential treatment (e.g. lower course evaluations, less respect, and more hostile behaviour) was the result of society's general devaluation of women and their work, and discomfort with women in positions of power. Moreover, in Alberts and associates' (2010) study, racial, ethnic, and religious minority faculty members recounted being the target of student incivility because of their identity. Other research has also shown that students hold biases about instructors based on their race or nationality (McCalman 2007; McCroskey 2002). For instance, students may perceive international instructors as lacking appropriate education or training, or non-White faculty members as being difficult to understand due to their accent despite using proper English pronunciation (McCalman 2007; McCroskey 2002).

### *Gaps in the Literature*

Therefore, the above literature suggests that societal stereotypes can cause student incivility. That is, a professor's demographic characteristics (i.e. race, gender, or ethnicity) may lead some students to create assumptions, consciously or unconsciously, about the professor's "competency and authority" (Burke et al. 2014: 171). Thus, this may result in intentional or unintentional student incivility (Burke et al. 2014). However, there are still many studies that have found mixed or insufficient empirical support for demographic characteristics of instructors being a cause of student incivility (Burke et al. 2014). For instance, Meyers et al. (2006) discovered no significant correlations between instructors' encounters with incivility and their gender, race, ethnicity, or status within the university. Similarly, both Lampman et al. (2008) and Bell et al. (2010) uncovered no significant differences in instructors' encounters with student incivility based on gender, race, ethnicity, nationality, or position within the university. Thus, there is a need to further explore whether instructor characteristics such as race and gender are associated with student incivility. Additionally, because the majority of these studies took place outside of Canada, there is a need to further explore whether these patterns of student incivility also present themselves in Canadian higher education institutions.

## **METHODOLOGY**

As mentioned, the purpose of this study is to describe the experiences of student incivility in higher education for professors at the University of Toronto. In particular, how would female professors describe their experiences compared to male professors? And, how would professors of colour describe their experiences compared to White professors?

### *Overview of the Research Design*

Interviews were conducted with four University of Toronto professors. Professors were asked about their experiences of student incivility in the classroom and outside of

the classroom, along with the frequency and intensity of the incivility. Professors were also asked about what they identify as student incivility, how they respond to student incivility, and if student incivility affects them. Moreover, professors were also asked about what these uncivil student behaviours could mean. Several themes emerged from the four interviews which were recorded and documented. The characteristics of each theme, and how they compare and contrast with each other were noted. The themes and their possible meanings or interpretations were also discussed with all four professors.

### *Recruitment of Respondents*

Non-probability convenience sampling (Berg and Lune 2012)<sup>1</sup> was employed to select research participants. This is because, since most professors are quite engaged in their work and therefore unavailable, professors who were close at hand and easily accessible needed to be recruited. Four professors were recruited who taught at University of Toronto. All four professors specifically taught at the University of Toronto Mississauga campus. Because the purpose of the study was to gain a deeper understanding of how female professors and professors of colour describe their experiences of student incivility in higher education, recruitment was carried out with the aim of achieving diversity with regard to respondents' gender and race/ethnicity. In particular, the study aimed to recruit one professor from each of four categories: White male professor, White female professor, male professor of colour, and female professor of colour.

Potential participants were contacted by email and given an overview of the research study. Approximately eight professors were contacted. Professors were told that the interview would be recorded, but their identity would remain anonymous. The first professor from each category to respond was recruited.

### *Description of the Research Participants*

The four professors that participated in this study ranged in age from 31 to 59. The professors ranged in years of teaching in higher education from 4 to 24 years. Three of the professors held Assistant Professor positions, whereas one held a Full Professor position. Additionally, all professors taught at least three courses at UTM. As indicated above, two of the professors were female and two of the professors were male. Two of the professors were White and two of the professors were ethnic or racial minorities. The distribution of race and ethnicity was equal. That is, there was one White male, one White female, one male professor of colour, and one female professor of colour. The following is a brief description of each of the four participants, with their associated pseudonyms. However, in order to keep anonymity, the professors' teaching disciplines are not mentioned.

Participant 1: The pseudonym for the first professor is "Professor Steve." Professor Steve was a White male in his early 40s. At the time of the interview, he held an Assistant Professor position at University of Toronto and had been teaching for nearly 15 years.

Participant 2: The pseudonym for the second professor is "Professor Michelle." Professor Michelle was a White female in her early 30s. At the time of the interview, she held an Assistant Professor position at University of Toronto and had been teaching for nearly five years.

Participant 3: The pseudonym for the third professor is "Professor Ahmed." Professor Ahmed was a male ethnic/racial minority in his late 50s. At the time of the

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<sup>1</sup> Non-probability convenience sampling is when researchers select participants who are easily accessible.

interview, he held a Full Professor position at University of Toronto and had been teaching for nearly 25 years.

Participant 4: The pseudonym for the fourth professor is “Professor Noura.” Professor Noura was a female ethnic/racial minority in her mid-30s. At the time of the interview, she held an Assistant Professor position at University of Toronto and had been teaching for nearly 10 years.

***The Interview Process***

Prior to the interview, all four participants were emailed the consent letter, allowing them to review the research guidelines and topic, and ask any questions. Participants were also reminded that the interview would be recorded. All participants agreed to being recorded. During this time, the date and location of the interview was also discussed. Pre-interview preparation only lasted one to two emails between the researcher and participant.

All four interviews took place in the participants’ own offices. Three interviews were held at the University of Toronto Mississauga campus, and one interview was held at the University of Toronto St. George campus. Two interviews were held on the same day, whereas the other two were held on separate days. All four interviews were semi-standardized and were 40 minutes long. Each interview began with employment questions, such as the participant’s position at University of Toronto and the number of years they had been teaching. The questions were followed by more open-ended questions that allowed professors to discuss their personal experiences of student incivility, what they constituted as student incivility, how they reacted and responded to student incivility, and if student incivility affected them in any way. A series of probes were used to broaden the researcher’s understanding of each of their personal experiences of student incivility, as well as their thoughts and feelings on the matter. As a result, all four participants’ interviews differed to some extent.

After each interview, notes were made about when the interview started and ended, the location of the interview, the date of the interview, and the researcher’s impression of the participant. Each recording was transcribed on the same day as its respective interview took place. Each participant was identified with a pseudonym. See figure 1 below which presents all of the participants with their pseudonym. After transcription, transcripts were reviewed several times. Patterns and ideas were noted and documented. Similar ideas were grouped together under a single conceptual label (i.e. theme). Overall, six distinct themes were recorded. Once codes were established, each theme was summarized and analyzed.

**Figure 1. Types of professors recruited and their associated pseudonyms, 2017**

	<b>Male</b>	<b>Female</b>
<b>White</b>	Steve	Michelle
<b>Ethnic/Racial Minority</b>	Ahmed	Noura

**DATA ANALYSIS**

As professors shared their experiences of student incivility, several significant themes emerged.

### *Sexist Treatment of Female Professors*

Both of the female professors in this study experienced sexist remarks and treatment from students at some point in their career. They reported that many of students' comments on their course evaluations were about their appearance rather than about their teaching or course content. As Professor Michelle reported:

In terms of student evaluations, students have spoken about the fact that I didn't wear makeup or at least not enough makeup...One student specifically said that I should wear lipstick because it'd look good while I fucked them over. So, usually it's about being, like, unattractive.

Eventually, Professor Michelle *did* start wearing lipstick to class because of the pressure she experienced in her early career.

However, unlike Professor Michelle, comments regarding Professor Noura's appearance were not outwardly negative. Many students complimented her on her appearance and praised her on her sense of style. However, she perceived these comments as being potentially detrimental to her career:

Of the comments I've seen, there's been positive...things that were said about my appearance... like, "And her outfits are super cute too!" Or like, "This is a cute prof!" Or like, "You have great style!" Those are really kind and positive things, but...the cumulative effect that it has in your file...is that it starts to create this theme that maybe you're not connecting with students because of your scholarship or teaching ability. Rather, students identify with you because of the clothing that you're wearing, your appearance...or things like that. And so...things that are quite positive can sometimes—when they come together as a group and as a theme that you can identify—end up undermining the seriousness of the professor's work.

Because of this, Professor Noura reported that she is always forced to balance out her course evaluations by providing additional documentation consisting of descriptions of her syllabi and teaching activities in order to prove that she is "serious and that there's real academic work happening in [her] classroom."

Still, Professor Noura was not exempt to hurtful sexist treatment by students. During her early years of teaching, she experienced sexual harassment by two young male students in her classroom in front of her other students:

I had a sign-in sheet, and there were these two young men in the class...When I'd send around the sign-in sheet...they'd...draw hearts next to their names or write their telephone numbers...They were doing it to egg each other on, but it had the effect in front of all the other students of undermining my authority...and sexualizing me. It was overall pretty demeaning. So...I had to...describe to them, "Look, I know you're doing this to make each other laugh...But this is technically sexual harassment. And...if you're harassing me in front of...other students, you're creating a climate of harassment.

These experiences of both female professors also showed that perhaps, for women, it does not matter whether they are receiving positive or negative comments on their appearance. Rather, all comments on physical appearance will eventually be detrimental to their career in some form—something that Professor Michelle also noticed:

Attractiveness is not really a safeguard. I think if you're really attractive, you get some...bad stuff. If you're not traditionally attractive, you get additional bad stuff. I have colleagues here who span the spectrum of traditionally attractive to not, and I think they all get this.



Additionally, female professors seemed to experience more challenge behaviours in the classroom and accusations of lacking knowledge than the male professors in this study. Professor Michelle reported:

If [students] ask me a question...they're very aggressive about it. Some students essentially challenge me on things and accuse me of making things up or being wrong in a very aggressive and confrontational way. That's almost like verbal assault...Or, they don't believe the things that I'm saying. This is my training, I have a PhD, and this is what the research says.

However, Professor Michelle was not the only participant in this study to notice a pattern in students challenging female authority more often. Professor Steve recalled a shocking experience in one of his classes years ago when a young male student challenged a female police officer's knowledge in class:

I had a female police officer...come in to talk...I had one male student in my class of 40-something students. He was a great student...But when she came in to guest lecture, he would challenge her a lot. He had never raised a challenge to me ever. When she would address his challenge points, he would continue to challenge her on the same points. It wasn't until I intervened to say, "I think she's addressed your point," that he would stop. It was a very strange gender dynamic. I thought the relentless way he was asking the same questions—which she very clearly and satisfactorily addressed—was odd. It seemed to be a quite gendered interaction...The way he was treating her was disrespectful even though she had been a police officer for 20 years. She knew more about that stuff than I did. That's her career. So his questions seemed out of place. But he never challenged me on anything.

Although Professor Ahmed did recount being challenged by students as well, it was seen as a response to his possibly dismissive attitude:

Once in a while, students will ask questions in a very combative way. Sometimes that's okay because I enjoy that. But once or twice, some students have come by for office hours, and they feel that I'm being short with them or too busy for them. They feel as though I've dismissed them...So, they feel upset and come back at me asking aggressive questions. I understand from their point of view...I should technically be available...But real life doesn't work out like that all the time.

When asked what these recurrent patterns of student incivility could mean, Professor Michelle stated: "I think a lot of it is reflecting sexism. And this is both for male and female students. I think students wouldn't say many of these things about a male professor or a tall male professor." Professor Michelle's analysis matched Professor Steve's response to whether he gets challenged in the classroom by his students:

Almost all of the experiences I had heard from [female] colleagues...I had never experienced. Who's going to challenge me? It seems silly, but people are differential in that regard. I've had [female] colleagues go in to teach tutorials as graduate students, and people didn't take them seriously. Or, make fun of them because they asked if this was the correct room...In terms of my own personal experience, I never get challenged. Even if I ask for it in a civil way, there's reluctance. It could be...their perception of me. It could be a lot of things. But for some reason, I don't ever foresee myself experiencing those...behaviours.



The results presented under this theme reinforce gender stereotypes regarding women's intelligence and appearance. Female professors appear to be receiving more sexual and verbal harassment, and their authority is challenged.

### ***Negative Socio-Psychological Effects of Student Incivility Experienced by Female Professors***

Female professors also reported experiencing negative socio-psychological effects due to their encounters with student incivility. Professor Michelle reported that when she first started teaching, she encountered so much student incivility that she did not want to go to work or teach classes because she was too nervous. She also recounted:

My first semester teaching, my students put together a petition to get me fired... That was pretty bad. I have an elliptical that I use for exercise, I couldn't use my elliptical. I couldn't even listen to music because the things that [students] would say would just be in my head. And so I had to watch TV because I needed some sort of distraction. I don't work out as well when I watch TV as I do when I listen to music. But I had to do that. Any time I didn't have something to distract me, I had these voices in my head.

Professor Michelle explained that although she has since then become more confident, better equipped to handle student incivility, and has stopped wearing makeup to school, those old feelings of nervousness, anxiety, and distress still return today when she experiences too much student incivility:

Over winter break, it was pretty bad. I had a lot of students upset about their grades. So, that sort of came up again...if I'm out on a walk...usually I need to have something to distract me. Otherwise it's just there in my head. It has a pretty big impact.

Although Professor Noura did not report any negative psychological effects of student incivility, she did express being consumed by the negative comments on her student evaluations despite the fact that the majority were positive:

It can be really demoralizing, particularly because it's so one-sided. Everybody knows who you are in this interaction, but the person writing the comment is anonymous...that's a very asymmetrical power relation that can make you feel, as a professor, very helpless. And it's difficult to know what to do to address it when the other person is anonymous. And so, you can get into this cycle of dwelling on the one or two really negative comments rather than looking at all of them as a whole. And there's usually a range. There's positive to mediocre to negative. But I think because it's anonymous, your mind just goes to that place, like, who could this have been? What are they talking about? So you start to catastrophize and dwell on the negatives.

In contrast, both male professors did not express being affected by any sort of student incivility. The difference in female professors could be due to the fact that female professors reported experiencing student incivility at higher rates.

### ***Student Incivility Mostly Experienced Online***

All of the professors in this study reported that student incivility is most prevalent online; this includes course evaluations, email, and websites. As Professor Michelle reported: "I think in general, the more extreme behaviour does tend to be when it's not in person. And it does tend to be when it's anonymous. Like...online or through course evaluations. Or in email."

Regarding emails, all four professors reported having at least one experience where students expressed a sense of entitlement through their emails and made demands of them. The following are accounts from all four professors of demanding emails that they have received:

PROFESSOR AHMED: I'm dumbfounded sometimes. One email I received this term was unbelievable. There was something wrong with the grading calculations. The student demanded that I fixed it right away or he would go to the dean. It was very rude.

PROFESSOR STEVE: The situation was that we were returning students' assignments...This one student couldn't find her paper...The teaching assistant explained to her the situation...and...that he could email her comments, and get an electronic copy of the paper and send it. She seemed satisfied...But later...I got an email where she said that...she demanded her paper...I thought the situation had been quite adequately addressed...but then I get this email which had a very accusatory and demanding tone...I didn't understand her incessant demand to have her original paper back.

PROFESSOR NOURA: Sometimes I get this language in these emails that to me is just bizarre. I would never in a million years, if I was asking someone to do a favour for me, come at them like that...It's like, "I NEED YOU TO LOG ONTO PORTAL AND DO THIS FOR ME RIGHT NOW BECAUSE I HAVE THIS TEST COMING UP!" Like, why are you emailing me at one in the morning in all caps? All caps is yelling.

PROFESSOR MICHELLE: I've...received aggressive emails saying, "I want to meet with you immediately. You have to talk to me." Like, there'd be no salutation and no ending. Just, "When are you available to talk? I need to talk to you now."

Still, female professors reported receiving more intense uncivil student emails. Professor Michelle reported: "One time I had 10 emails back and forth with a student until I finally said this is done."

In contrast, both male professors did not experience such uncivil student emails. Regarding Professor Ahmed's uncivil student email reported above, he stated: "I told [the student] that...we never received his paper. And...he was free to go to the dean...But then he...said that he was very sorry."

Regarding websites, both female professors reported reading *ratemyprofessor.com*. Professor Noura explained that it was important to read these websites in order to know what was written about her on the internet in case somebody heard about her work and Google searched her. She also explained that professors today are highly aware of these websites:

For this generation of professors that I'm in, which is people in their 30s or younger, we're all like acutely aware that [*ratemyprofessor.com*] ends up being a link that shows up on page one of your Google search. So, you want to be aware of it. Not that you can do anything about it.

Professor Michelle described student incivility in these types of forums as verbal harassment:

I remember somebody...said things like I was a difficult professor, but they said it much more meanly than that. They said that I didn't know what I was doing. That I didn't know how to teach. That I didn't know what I was talking about. That I was unfair. Some students said that I was disrespectful, but they didn't say how.

However, most professors agreed that out of all three of these online forms of communication (i.e. email, websites, and course evaluations), student incivility was most widespread on course evaluations. As Professor Noura stated: "Any sense of real incivility gets aired on the student's side towards the end of the semester in evaluations." Professor Steve explained that students tend to be braver on evaluations than in person due to the anonymity.

Even both of the male professors, who reported that they rarely experienced student incivility, revealed that they had been made fun of or yelled at in their course evaluations once or twice. Professor Steve recalled a student commenting on his appearance while Professor Ahmed reported:

Last term, I received...comments from students saying that my class was a total waste of money and...they wanted their 600 dollars back, without elaborating why. I think that is kind of rude. I understand, but I would like reasons for why they think that.

### ***Professors Saw Students Behaving as Consumers***

Three out of four professors agreed that students behave as consumers and treat professors as employees, and demand "services" from them. Professor Ahmed stated:

I mentioned earlier in my course evaluations...students saying that they wanted their 600 dollars back. This is the same consumer attitude. And that rude email that I had mentioned earlier where the student wanted to report me to the dean is the same logic. When there's bad customer service, most people say that they want to talk to your supervisor. The dean was like the supervisor.

Professor Noura described feeling like "the hired help" who must serve her clients (i.e. students) all day and all week. Additionally, Professor Michelle reported students commenting that they pay her salary on her course evaluations, indicating that she must abide by their demands. According to Professor Michelle, there seems to be a deep misunderstanding about what the university represents. Students appear to be more interested in their grades and graduating than learning and gaining knowledge. She reported that students enroll in her courses, not to learn, but to raise their GPA. She also reported: "I remember students would come to my office hours and ask me to calculate their grade for them, which is sort of like that employee thing, like calculating their grade when they could've done that themselves."

However, Professor Steve did not see students as consumers. He stated that, in his experience, students are still intimidated by the professor, indicating that there is still a traditional professor-student relationship present, where the student sees the professor as an authority figure and respects them. Professor Steve's different perspective on this matter *may* result from his gender/race combination (i.e. White male). That is, students *may* respect professors more depending on their gender and/or race.

### ***Racist Treatment of Professors of Colour***

Both professors of colour reported experiencing racist remarks by students. Professor Ahmed, an ethnic/racial minority professor, reported that he receives comments about his accent every term in evaluations. He explained:

What comes across all the time for professors of colour is that he or she has an accent. At the start of my course, I always tell my students that everyone has an accent. It's a matter of what kind of accent you're used to. I joke with them

and say, “When you say accent, do you mean American accent or Canadian accent?” But it’s actually English from England. It’s an accent to you.

Professor Noura, an ethnic minority professor, reported that recently her department chair removed one of her evaluations from her file because it was extremely racist:

Apparently last semester there was at least one evaluation that was so shocking that my chair had it removed before I saw it. They said it was too racist...And it has to be really hard core typically for your chair to intervene, and say that this is so blatantly biased and offers so little feedback.

Additionally, Professor Michelle, a White professor, reported that she believes her female colleagues of colour receive more student incivility than her, especially those who are relatively short and young.

Still, it appears that Professor Ahmed experienced more low-intensity racist student behaviour. This is because, unlike Professor Noura whose evaluation was so racist that it was removed from her file, Professor Ahmed’s evaluations were not removed and he was able to joke with students about their comments on his accent. Thus, it appears that being a racial/ethnic minority woman is also lower in the social hierarchy than being a racial/ethnic minority man.

### *Different Definitions of Incivility between Male and Female Professors*

When asked how they defined incivility, the answers of female professors were largely different from the answers of male professors. Additionally, female professors were much quicker to respond to the question, whereas male professors had to think about their answer before responding. For instance, when Professor Michelle was asked about what she constituted as incivility, she stated:

The first thing that comes to mind is open rudeness. Basically, mean things that students say. But it can also be something like students on cell phones, not paying attention, or having earbuds on in class.

Similarly, when Professor Noura was asked about what she considered as uncivil, she responded:

I think of a continuum, from a stance in class of ignoring the lecturer or ignoring some kind of activity that’s meant to encourage participation and just opting out, to threatening violence either by doing something with your body or with your voice to insinuate that you’re going to be violent, to actually executing the violent behaviour. So, I consider it like a big continuum.

In contrast, when Professor Ahmed was asked about how he defined incivility, he stated; “I was curious about that actually because I’ve never really experienced incivility. I guess it depends on how one defines it.”

Although Professor Ahmed was not able to give a solid definition of incivility like both of the female professors were, he was correct in saying that “it depends on how one defines [incivility].” Whereas Professor Michelle saw students using cell phones in class as uncivil, Professor Ahmed did not see this behaviour as uncivil: “Students using cell phones—that’s not really uncivil.”

These differences in the perception of incivility between male and female professors could be due to females being more sensitive to incivility than men. That is, because females are the more vulnerable sex in society, they may be more affected by uncivil behaviours than men.

However, though today Professor Ahmed does not consider students entering class late or leaving class early as uncivil, he *did* consider the behaviour as somewhat uncivil in his early career:

I've never really experienced [incivility] in Canada, except early on when I just came from Singapore. Just the idea that students [in Canada] could get up and walk out of the classroom after the first five minutes of lecture—that was kind of hard to get used to initially.

Therefore, this provides some evidence that age and experience may also be important in determining what professors perceive as incivility.

## DISCUSSION

Overall, the findings of this exploratory study were very consistent with the literature. As expected, female instructors in this study experienced more incivility than male instructors. Fortunately, most incivility experienced by females was low-intensity. However, occasionally, female instructors *would* experience high-maintenance students and challenge behaviours, which can both be categorized as mid-intensity incivility. Moreover, many of the incivilities experienced by women had a gendered component, demonstrating that female instructors are targeted as professors *and* women. Thus, this proves that there are gender issues prevalent in many classrooms. Regarding our professors of colour, although both reported experiencing some form of racism at some point in their careers, the racism was not as frequent as the sexism experienced by our female instructors. Overall, most of the student incivility experienced by *both* males and females in this study can be categorized as “annoyances,” including chatting in class, using cell phones, or not paying attention. Still, the fact that those already most vulnerable in society (i.e. women and professors of colour) experienced the most incivility, is significantly problematic.

Furthermore, this study also discovered that most student incivility for both males and females takes place online—either through course evaluations, email exchanges, or websites. Still, even incivility experienced online is more frequent and intense for female instructors than male instructors. Online, female instructors have been judged for their appearance, sexually harassed, and challenged on their knowledge and experience. Moreover, nearly all participants in this study agreed that students behave as consumers who demand services from instructors. According to our participants, consumerist behaviours amongst students have consisted of threatening to go to the dean, demanding their money back, and claiming that they pay instructors' salaries. Finally, in accordance with the literature, female instructors in this study also reported experiencing negative socio-psychological effects due to their encounters with student incivility. Female instructors reported lacking motivation to continue working; obsessing over negative student comments; and feeling nervous, anxious, and less confident due to incivility. However, because women are a more vulnerable group in society, they may be more sensitive to incivility in the classroom. In contrast, male instructors may lack that sensitivity due to not being a vulnerable group in society. Therefore, similar events may be more uncomfortable for women than for men. In addition, similar events may be categorized as incivility by women but non-incivility by men, making women report incivility at a higher rate than men.

### *Limitations and Recommendations*

It is important to address the limitations of this study. Because this study only interviewed four professors and only one professor from each sub-group (i.e. White male, White female, non-White male, non-White female), the findings of this study cannot be largely generalized to all of University of Toronto. The findings may not represent the



experiences of instructors in different departments, positions, or campuses. Another limitation is that this study did not examine the age and experience of professors. Both females in this study were younger and relatively early in their careers compared to both of the males who were older and relatively more experienced. According to the literature, younger and less experienced instructors are more vulnerable to incivility than older and more experienced instructors. Therefore, female instructors in this study encountering more incivility could also be due to their age and experience rather than merely their gender.

Regarding recommendations for universities and instructors on how to confront and respond to student incivility, there is no “silver bullet.” Different instructors have different preferences in how to confront and respond to incivility in the classroom. However, it is still important to make instructors aware of the range of strategies at their disposal that can assist them in responding to and preventing incivility. This can be accomplished by training instructors on how to respond to incivility—preferably early in their careers as it would be beneficial for instructors to begin their academic careers already knowing how to respond to uncivil behaviours. Training could especially be useful in the event of high-intensity student incivility, such as intimidation and threats of violence. Moreover, the literature and this study have revealed that different instructors encounter different types of incivility (e.g. males vs. females); therefore, in the future, it would be beneficial for instructors to receive personalized training or mentoring. Such training can assist instructors in dealing with specific kinds of incivility, such as sexism or racism. In addition, training should also be used as a platform to build instructors’ confidence to respond to incivility. As previously mentioned, instructors associated with societal vulnerabilities may be less inclined to respond to incivility due to potential fears related to social inequality. Helping such instructors build their confidence could help them move past their fears of confrontation.

Furthermore, in contrast to training, it may also be beneficial to have students discuss what constitutes as civility and incivility. Having students communicate this information in public rather than in private may encourage them to commit to behave within the boundaries of civility. Additionally, administrators should also be aware of the types of instructors who are most vulnerable to experiencing incivility and, therefore, should make it a priority to regularly communicate with these instructors about their classroom experiences. This additional support system may encourage certain instructors to report incivility rather than conceal it. All of the aforementioned recommendations have the potential to improve not only the experiences of instructors in the classroom, but also the experiences of other students.

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# Too Poor to be Pretty: Exploring the Establishment and Enforcement of Ontario Safe Streets Act

by Akaramah Khawaja

## ABSTRACT

This article explores the establishment and enforcement of the Ontario Safe Streets Act (OSSA) with attention to Toronto, Ontario, Canada. In this paper, the concept of the act itself is divided between 'law in the books' and 'law in action'. The creation of the law will be explained theoretically through law in the books. The enforcement of OSSA will be explained through law in action. The establishment of OSSA has been set in motion due to neo-liberal governance coupled with capitalist interests. This has prompted the process of 'othering' as pertaining to homeless youth in the Toronto downtown core. The government with the help of the media have painted squeegee kids in Toronto as deviant and in need of social control; OSSA being one such tool of social control. On the other hand, research into the implications of OSSA reveal that the law is not being used to target aggressive soliciting, rather it is mainly targeting squeegee kids in Toronto. Further, the law seems to be affecting certain populations more harshly. The concepts of intersectionality and the related multiplicative effects of identity are explored as related to law in action. Thus, this article argues that the Ontario Safe Streets Act (OSSA) is established and enforced to serve capitalists interests through the regulation of visibly homeless youth in the Toronto downtown core. The capitalist class can only accomplish this through the process of 'othering' under neo-liberal governance.

## TOO POOR TO BE PRETTY: EXPLORING THE ESTABLISHMENT AND ENFORCEMENT OF ONTARIO SAFE STREETS ACT

Since the 90's, there has been an increase in tensions relating to the use of public urban space (Chesnay et al. 2013). These tensions have arisen due to the gentrification of Toronto's downtown core. In a broad sense, gentrification is the process of manipulating the downtown core to suit the needs of middle-class Torontonians. Removing the visibly homeless from these areas is one of the many techniques used to make it attractive to potential investors. Simultaneously, the adoption of neo-liberal policies in Canada has forced people to rely on the market to satisfy their needs rather than on the government (Gingrich 2002). Naturally, the effects of neo-liberal policies in Canada has drastically restructured the welfare-state (Munice 2003). In turn, those most burdened by these policies are individuals who are disadvantaged due to the multiplicative effects of intersectionality. Research indicates that male youth with a low socio-economic status have been most burdened by such policies (O'Grady et al. 2013). Further, the needs of such policies dictate the necessity to draw lines and boundaries representing which individuals in society are deserving and undeserving of a response to their need (Gordon 2004). The establishment of such boundaries can be accomplished through the process of othering (Gingrich 2002). Othering is the process of creating a difference between the in

group and out group through social constructionism. Research indicates that impoverished male youth who employ various techniques of survival were specifically targeted and constructed as criminal (Parnaby 2003). Due to the social, political, and economic circumstances, one of the methods used to force homeless youth out of the downtown core by restricting their survival strategies was through Ontario Safe Streets Act (OSSA). Thus, I will argue in this paper that the Ontario Safe Streets Act (OSSA) was established and is enforced to serve capitalists interests through the regulation of visibly homeless youth in the Toronto downtown core.

### ***Ontario Safe Streets Act (OSSA)***

The Ontario Safe Streets Act became effective on the 31<sup>st</sup> of January 2000. The categories of offences which it covers are related to aggressive panhandling, solicitation of a captive audience (a person in a vehicle, waiting in line for a bank machine, or public transit), and unsafe disposal of a used condom and/or needles and broken glass. Solicitation refers to: “request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken written or printed word, a gesture, or other means” (Government of Ontario 1999). OSSA dictates a maximum penalty of \$500 for a first-time offence, and \$1000 or imprisonment for a term of not more than 6 months for each subsequent offence. Moreover, individuals with unpaid fines may face other consequences pertaining to incarceration, an inability to renew their driver’s license and health card, and a bad credit rating.

Interestingly, the act is devoid of the word “homelessness”. Critics argue that this was an intentional move by the government (O’Grady et al. 2013). Removing the word homelessness reduces attention away from the possibility of the act to invoke a status offence. Thus, OSSA was invoked, critics argue, to remove homeless squeegee kids and panhandlers from Toronto’s downtown core in the mid 1990’s (Parnaby 2003). The act was not intended for only dealing with aggressive acts. It provided law enforcement officers the tool to pursue other types of ‘disorderly conduct’. However, to understand the necessity to deal with such ‘disorderly conduct’, it is important to go back in history and discover the root causes which established vagrancy laws in the first place.

### ***Vagrancy Laws from a Historical Perspective***

During the mid-nineteenth century, Britain was experiencing an exponential growth due to the on-set of industrialization under a capitalistic structure (Gordon 2004). Naturally, capitalists required a constant flow of cheap, able-bodied labourers. The government created various laws pertaining to vagrancy which greatly contributed to the criminalization of homelessness and poverty. These laws made it a crime to be able-bodied, unemployed, begging, selling, or just being in public space. Being idle itself became a crime. In Canada, the enactment and enforcement of such laws is evident in 1892. Such laws were rooted in status offences, where it could be considered a crime to belong to a certain identity rather than committing any specific act. Consequently, most vagrants charged were young and able-bodied. Gordon states: “no one could live under the illusion that he/she could live except by the sweat of his own brow. The sweat of one’s brow could only be acceptable if produced through market relations” (Gordon 2004). In other words, legitimate work can only be found through the means of a wage-labour relationship to the market and ultimately to the capitalist class. This historical perspective of vagrancy laws in most industrialized western nations as well as Canada parallels the rise of neo-liberalism in modern Canadian society.

### *A brief Overview of Neo-Liberalism in the Canadian Landscape*

Neo-liberalism or advanced liberal governance is enshrined in capitalism and globalization (Munice 2006). It is a type of governance which seeks to govern at a distance. This is accomplished through the “responsibilization” of individuals as well as communities. Like running an effective business and under the pretense of providing freedom to individuals, it aims to rid anything which is perceived to be ineffective, inefficient, and/or unproductive. Munice states: “Notions of social engineering, social solidarity, social benefits, social work, social welfare, it is contended, have been largely dismantled to create the conditions for a responsible citizenship” (Munice 2006). Consequently, the role of the welfare state has been eroded due to neo-liberal policies. Further, Gordon states that neo-liberalism has provided a “re-commodification” of social life (Gordon 2004). Under neo-liberal policies, access to health care, food, and housing depend increasingly on the market. Ultimately, this has led to an increase in the pressure for youth to find work regardless of its quality. Lastly, neo-liberalism requires the process of “othering” and drawing lines between “I” and “them” (Gordon 2004).

### *Social Construction of the Deviant Youth*

It is important to note that squeegee kids in Toronto were not always perceived to be deviant; they were constructed as such (Parnaby 2003). During 1995 to 2000 there was a large presence of squeegee kids in Toronto. They used squeegeeing as a tool for their economic survival. However, research indicates that these youths became a topic of social and political disputation by 1997. Further, Parnaby argues that their economic activities were targeted due to a result of “disaster rhetoric” used by the government of Ontario. This disaster rhetoric surrounding squeegee kids in Toronto was used by using certain cultural imagery along with rhetorical and idiomatic strategies. As a result, a squeegee kid typology began to emerge in the media. Researchers indicate that the turning point of this typology was in 1996 when a member of the liberal party had his windshield wipers torn off by an angry squeegee kid. After this point, the issue of squeegee kids became a social problem indicating juvenile delinquency and urban chaos. Soon after, the problem began to shift towards a law and order framework in which the OSSA became firmly situated. The media began to show images of squeegee youth under the pretense of disaster rhetoric. It was relatively convenient for the media to accomplish this given the appearance of squeegee youth; they seemed to belong to a youth gang rather than being members of the larger homeless population.

Anti-squeegee claimants, the media, and the government created environments necessary for OSSA due to the process of othering (Gingrich 2002). Research indicates that the government used precise language to promote this process. He argues that the “temporal and subject-object order of the text works to supplement the subjectivity of subjects and objects” (Gingrich 2002). This method creates a polarization between us and them; it highlights and validates difference between groups of individuals. Since the object of OSSA does not include all people involved in soliciting, by describing and relating activities of certain individuals, the government accomplished the targeting of such individuals. The othering process by its very nature tends to divide the notion of entitlement; we are entitled, while you are not entitled. This relates to neo-liberalism because “social policy in a market state is about drawing lines, about managing and distributing resources, and about assembling the ‘I/eye’ so the ‘other’ can be recognized”. Thus, squeegee kids became deviant due to the implementation of the othering process under the influence of a neo-liberal governance. A historical perspective on vagrancy

laws coupled with the modern conditions of a current neo-liberal governance has helped create the OSSA. These conditions have created law in the books. The implications of OSSA must be considered to explore law in action.

### *Implications of OSSA*

Research based on law in action pertaining to the OSSA uncovers interesting facts. Firstly, it was discovered that there was a 2000% increase in the number of tickets given from the period between 2000 and 2010 (O'Grady et al. 2013). Simultaneously, there had been a decrease in crime rate, the number of homeless populations, and panhandling. These contradictions can only be explained using broken windows policing (O'Grady et al. 2013). The ideology behind broken windows policing is simple: a disorder of any kind creates a criminogenic environment in which crime of all sorts can flourish. According to this view, disorder can predict crime. Essentially, these assumptions necessitate the forced removal of anything which seems out of ordinary. In this specific case, visibly homeless male youth trying to make a living out of squeegeeing were constructed to be perceived as disorderly (Gingrich 2002).

One of the contested implications of a broken window policy is that individuals may be prosecuted without an overt act. Simply having a certain identity and being in the wrong place at the wrong time may be enough to warrant police action against such an individual. These types of policies bring us closer to the status offences of 1892 in Canada and vagrancy laws in Britain prior to that point. In Toronto, 16,860 tickets under the OSSA were issued between 2000 and 2006 (Chesnay et al. 2013). Ontario saw an increase of 870% in tickets given between this period. Majority of tickets issued in Toronto pertained to section 3.2 (f) of the act. This specific section relates to and targets squeegee work. Most notably, only 18% of tickets given were for aggressive solicitation. Further, the distribution of tickets was uneven. In Toronto, the group who were ticketed six times or more in the six-year period constitute 6.2% of all ticketed people. Yet, they received 51.4% of tickets delivered during that period. The author states: "In terms of penalization, not all ticketed individuals are equal." Research also indicates that 85% of those ticketed during this period were males (Chesnay et al. 2013). Lastly, 0.3% of the fines given under the OSSA were paid. This research hints that the aim of the OSSA was not about targeting aggressive solicitation, rather it was about the penalization of homeless youth in general in the Toronto downtown core. However, it is important to understand why the removal of such youth was necessary for certain groups of individuals in Toronto.

It was discovered that most tickets issued were to homeless people in the downtown core (O'Grady et al. 2013). These areas come under Toronto Police's divisions 51, 52, and 14. Interestingly, these divisions are marked by high-end businesses, major tourist attractions, elite housing, banks, and finance corporations. Conversely, areas which have a high crime rate like Jane and Finch or Regent Park have relatively low ticketing rates. These findings indicate that the OSSA is being used as a tool to remove visibly homeless youth for the benefit of the wealthy or capitalist class in the Toronto downtown core.

Using a critical perspective, Ontario Safe Streets Act can be viewed as a tool used by capitalists to push out the disorderly from urban zones like the Toronto downtown core. The use of law and government to undertake capitalist interests have been easily accomplished under neo-liberal governance. Beneath the guise of safety and security of the people, the 'other' has been established and deviantized. In this case, the other represents homeless youth in the Toronto downtown core. The vagrancy laws of the past along with previous status offences in Canada have something in common with OSSA.



This commonality arises out of the non-neutrality of the law to propagate the interests of the capitalist class.

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# Stealing, Smuggling, and Selling: The Illicit Art and Antiquity Trade Network

by Isra Saghir

## ABSTRACT

While art and antiquities are an integral part of modern society, few are aware that many prized art pieces and ancient artifacts have criminal origins, and little is known about the criminal processes which bring stolen art into the noncriminal world. This study investigates the transnational illicit trade in cultural goods to determine how the network functions. An analysis of scholarly work in criminology, criminal justice, law, economics, and cultural heritage established that the criminal trade in art and antiquities is based on the interlock between licit and illicit markets, which facilitates the movement of goods from black market to legal world. This process is carried out through: 1) an environmentally responsive network characterized by a socially, culturally, politically, and geographically adaptable 4-stage criminal structure; 2) individual and institutional transportation of stolen goods; and 3) laundering, in which legal individuals and institutions legitimate stolen goods through unique legal codes, social positions, and de-regulated sale environments. The case of Steve Green, a CEO who purchased illicit Mesopotamian antiquities, is used to demonstrate how this network functions in real life. The social, cultural, political, environmental, and criminological ramifications of this massive criminal enterprise are discussed, as well as the contributions of this study to the criminological understanding of modern criminal organizations. This analysis of the illicit trade network in art and antiquities provides an important breakdown of the criminal organization and serves as a source for further research and policy reformation.

## INTRODUCTION

Old Masters, priceless sculptures, and ancient artifacts have long fascinated society, becoming topics of endless study and speculation. Less is known, however, about how these objects find their way to the galleries and museums at which they are admired. Unbeknownst to most of society, these cultural goods often have criminal origins. This paper explores the theft and trade of illegal art and antiquities. The research aims to determine who participates in the trade of stolen cultural goods, what criminal acts are involved in the trade, how the crime network is organized, and how each step of the illicit trade, from theft to sale, is carried out.

Specifically, the research question this paper investigates is: "How is the organized transnational trade of illicit art and antiquities structured and carried out?" I argue that the transnational illicit trade of art and antiquities is an organized crime network which is built on the interlock between illicit and licit markets; this transition of goods from illegal to legal markets is carried out through an environmentally responsive network structure, transportation, and laundering. In the context of the art trade examined in this research, the illicit market is defined as illegal trade on the black market, while the licit market refers to lawful buying and selling in the legal market and business world.

The case chosen to reflect this topic is that of Steve Green, CEO of the arts and crafts retail chain Hobby Lobby, who purchased 5,500 illicit ancient Mesopotamian

artifacts which were looted and smuggled illegally out of Iraq. An anonymous chain of dealers brokered the purchase of the goods, which were falsely marked as tile samples from Turkey; the artifacts were shipped to retail locations of Hobby Lobby, then taken to Green's private collection. Despite the suspicious nature of the deal, Green proceeded with the purchase with the intent to display the items in museums and galleries. This case provides a real-life example of how the illegal art and antiquity trade is carried out by illustrating the process through which illicit goods enter licit markets and the roles involved, and will be used as a framework to contextualize the illicit art and antiquity trade.

This study will use an analysis of Campbell's structural descriptions of art crime (2013) networks and the scripting studies of Bichler et al. (2013) in combination with several legal and criminological evaluations of the art and antiquity trade to determine how licit and illicit markets interlock. The paper will first present a breakdown of the network structure of the trade, followed by an interpretation of the legally ambiguous role of transportation in art crime, and a multi-level critique of how laundering serves as the bridge between legal and illegal markets. The significance and repercussions of the findings of this research will then be discussed in the context of modern criminology, cultural heritage, and the case example.

## ENVIRONMENTALLY RESPONSIVE NETWORK

The transnational trade of illicit art and antiquities is structured as a fluid, environmentally responsive network built around adaptable role specialization. Research identifies the fluidity of the illegal art trade as a distinguishing feature; while the system is organized, as each individual within the network intends to commit crime, it is not hierarchical in the manner of traditional organized crime (Campbell 2013). The activities and roles are flexible, dependent on the geographical, political, social, cultural, and economic conditions of the source and market countries involved (Campbell 2013). As a result, each set of transactions takes place in a unique network framework (Campbell 2013). This network-based adaptability is what allows the trade to function transnationally and connect licit and illicit markets in a way which other smuggling and trafficking networks cannot (Campbell 2013).

This fluid network is based on a system of role specialization, which is necessary to carry out illicit trade in art and antiquities. Site knowledge, transportation, smuggling, laundering, archaeology, and art history are all types of specialized knowledge required for successful art trade on the black market (Campbell 2013). While the form of roles and knowledge varies depending on the physical and cultural characteristics of each location, role specialization is based on an underlying environmentally adaptable four-stage role structure; (1) Looter/Thief, who steals the goods; (2) Early Stage Intermediary, who transports the stolen goods; (3) Late Stage Intermediary, who launders the goods; (4) Collector, who purchases the illicit items (Campbell 2013). Multiple individuals may carry out roles at each stage, but each of these roles function independently of previous and later nodes in the network; their participation involves only their own skill set (Campbell 2013; Bichler, Bush, and Malm 2013). The case of the Lydian Hoard demonstrates this structure: in 1965, Turkish farmers looted and sold grave goods to a regional smuggler, who transported and sold them to two late stage intermediaries; dealers who ultimately sold the artifacts to the Metropolitan Museum of Art. This role structure remains consistent independently of specific actors within the network; the roles, not the individuals, sustain the network (Bichler et al. 2013). This four-stage

structure is an organically created system based on the fact that the illegal art market, unlike other criminal trades, is reliant on goods passing into the legal market; the role specializations outlined above work to legitimate the stolen goods and allow them to generate profit (Campbell 2013).

## TRANSPORT

The role of transportation is key to the function of the illegal art trade network as it facilitates the international movement of illicit goods from source to market country. Scripting studies demonstrate that transportation has the quality of centrality within the network; all aspects of the trade, including looters, dealers, and collectors are connected in some way to transportation, whether on the local, national, or international level (Bichler et al. 2013). Transporters can be individuals or groups; while in many cases transportation is carried out by group or individual smugglers involved in other smuggling networks, corruption within many source countries has expanded the role to include not only residents, businessmen, and visitors, but also military members, personnel, and civil servants (Lane et al. 2008; Campbell 2013). Often, transportation, especially internationally, is carried out by industrial transport services, that is, transport and storage firms (Bichler et al. 2013). Because only a few such firms have the resources to handle complex international shipping as well as the logistics involved in handling cultural property, they hold power within the network (Bichler et al. 2013).

Private property, warehouses, and shipping containers hold an important place within this process of transportation. These facilities and tools serve as means of storing artifacts throughout the transportation chain; often, illicit art and antiquities follow transportation routes through several countries in order to validate objects for further transport by distancing them from their illegal origins (Campbell 2013; Bichler et al. 2013). Many of the countries along such routes have loose or vague ownership laws which allow stored goods to become property of the transporter or possessor after a period of time; in the Cayman Islands, for example, goods in storage become the legal property of the possessor after seven days, and can then be legally transported to market countries (Lane et al. 2008; Bowman 2008). Private property can also serve as a legal address for illegal goods to be shipped to (Bichler et al. 2013); in the case of Steve Green, his Hobby Lobby retail locations were the addresses to which the illicit clay tablets were delivered to (Alan Fever 2017). Thus, private property, warehouses, and shipping containers serve as a legal stop in the illegal art transport chain which serve to blur the line between legal and illegal in the underground art and antiquity trade.

Aside from actual transporters and transport locations, a level of corruption in government regulation is also required (Bowman 2008), especially in source countries (Fisman and Wei 2009). Specifically, corruption amongst customs inspectors, border patrol agents, or law enforcement are necessary to facilitate either cross-border movement or procurement of forged documentation, both of which are necessary parts of the transport process (Bowman 2008).

Transportation is a vital step in physically moving art and antiquities from the zone of illegality (the source country) to the zone of legality (the market country). The transportation industry “has a finger in all sectors of [illicit art] market activity” (Bichler et al. 2013:272), securing it an extremely influential central position within the illicit art and antiquity trade network.

## LAUNDERING

Laundering is the most important part of the entire illicit art and antiquity trade network; its role in legitimating illicit goods places it at the intersection between legal and illegal markets. The success of the entire illicit art trade is reliant on successfully laundering materials and allowing them to be legally sold (Campbell 2013). Legitimizing institutions, specifically auction houses and art dealers, are key to legalizing stolen goods (Hill 2016; Lane et al. 2008); the social, political, and financial influence these individuals and institutions possess due to the prestige of their positions makes them appear legitimate to the public, and so they are trusted by purchasers to be legal enterprises (Naylor 2008).

As many as ninety percent of art and antiquities on the legal market may be stolen (Hill 2016:358); laundering involves both acquiring and demonstrating the legality of these illegal goods in order to generate profit. The sheer amount of stolen goods on the market necessitates that art dealers and auction houses, even highly reputable ones like Sotheby's, are usually aware of the illegality of art and antiquities (Hill 2016); their code of rules, however, states that they are not responsible for the origins of the materials they sell (Lane et al. 2008). Once acquired, these goods are legitimated by selling them as pieces of unknown or undocumented origin (Lane et al. 2008).

This process is often repeated through a chain of laundering between launderers at local and international levels. Local dealers may maintain their own auction houses and galleries, through which objects are legitimated and passed on to a dealer, auction house, or collector in another country, where the same process is repeated, and so on, until the goods reach the final market country (Lane et al. 2008). Thus, by the time the art and antiquities arrive in Europe or North America to be sold to collectors, they may have been laundered multiple times already (Lane et al. 2008). This chain serves to further distance illegal goods from their origins by continually legitimating them, thus integrating illicit art and antiquities into the licit market.

Art Fairs are central to the laundering process (Bichler et al. 2013). The brief nature of Fairs creates a temporary market with little to no regulation and a huge buying frenzy; by directly connecting buyers from the licit market and sellers from the illicit market in private sales carried out over a short period of time, the laundering process is accelerated (Bichler et al. 2013). Little regulation exists around Art Fairs, and that which does is difficult to enforce in the fast-paced environment; as a result, a huge amount of illegal goods can be sold as legitimate without question (Bichler et al. 2013). As a result, Art Fairs saturate the licit market with legitimated stolen goods; during the Maastricht 2006 fair in Germany, for example, 218 exhibitors from 15 different countries displayed art to 84,000 visitors over 10 days and the event generated an estimated €500 million in sales (Bichler et al. 2013:373). Thus, Art Fairs also act as an important laundering and legitimating institution.

Ultimately, launderers, in the form of local, national, and international dealers, auction houses, art fairs, and other similarly positioned institutions act as "mechanisms for connecting buyers and sellers in a manner that facilitates the [necessary] transfer of art and antiquities from the illicit to the licit economy (Lane et al. 2008:255). Evidence establishes that laundering is the most important part of the entire illicit art and antiquity market.



## DISCUSSION

The illicit trade in art and antiquities is estimated to be worth at least \$10 billion dollars annually, and the huge amounts of illicit art on the market indicate that the number is likely much higher (Naylor 2008). Beyond the obvious financial costs, this criminal network also poses significant cultural, social, and political threats to the global community.

The trade in art and antiquities involves harm to cultural heritage; the looting of antiquities in particular involves the destruction of important archaeological sites (Lane et al. 2008). Not only does this destroy understandings of world history and the human past, but depriving nations of their cultural patrimony harms their societies and infrastructures (Lane et al. 2008; Campbell 2013). Further, antiquities are usually stolen from poor source countries to be sold to collectors in much richer market countries; this facilitates the economic, social, and cultural dominance of disadvantaged people and nations (Campbell 2013).

Even more disturbing, the trade in illegal art and antiquities has been shown to be funding terrorist groups; extremist groups such as the Taliban, ISIS, and Al-Qaeda engage in looting and theft to fund their campaigns (Campbell 2013; Bowman 2008). This is especially prominent in countries such as Afghanistan and Iraq (Campbell 2013). The illegal art trade has also been observed to have connections with other crimes, including drug smuggling and arms dealing (Campbell 2013). The impacts of this form of organized crime thus have significant negative impacts on countries and people throughout the world.

This examination of the structure and functions of the illicit art and antiquity network contributes to our understanding of crime and organizations by establishing that, counter to popular knowledge, not all organized crime enterprises are hierarchical. This trade network has no centralization or ranking, and fits none of the criteria for a formal hierarchy; rather, it is made up of interchangeable participants working individually (Campbell 2013). Research proves this through the analysis of several cases of arrest and prosecution of key figures in the art and antiquity trade; the removal of these individuals had no effect on the function of the criminal network, as it simply adjusted with others filling the roles (Campbell 2013).

By demonstrating the underlying structure of the illicit trade, this paper provides an understanding of how networks often carry out criminal activity more effectively and efficiently than the stereotypical traditional formal hierarchies of organized crime.

Importantly, the analysis of laundering provides insight into how organized crime is not limited to the underworld or black market; rather, trusted and legitimate institutions and individuals such as art dealers, auction houses, galleries, and museums play a major part in crime. Further, these elements demonstrate how legal and illegal markets are not separate, but interlocked.

The analysis of art crime provided by this paper effectively contextualizes Steve Green's acquisition of stolen Iraq antiquities, as outlined in the case. The breakdown of transportation and laundering explains how transporters moved the goods out of Iraq and to a dealer by utilizing corruption to ship the goods as licit objects; these dealers were able to legitimate the goods through obscuring their origins; and Steve Green, a member of the licit market, ultimately purchased the illegal goods legally. By providing an understanding of this case, this paper explains how the illicit trade functions in real life, and how illegal art and antiquities end up in prized galleries and museums.



The present study of the illicit art and antiquity trade network can provide information on how to reform policy to dismantle this and other criminal networks, ultimately reducing crime and widespread harm locally and globally.

## CONCLUSION

The illicit trade network in art and antiquities is a broad and important topic. This paper presents a breakdown of its primary characteristics and components by establishing the trade as an organized network characterized by an adaptable network structure, transportation, and laundering which facilitate the passing of goods from the illicit to the licit market. This network has significant social, political, and cultural impacts globally.

Overall, by analyzing the form and function of the illicit art and antiquity trade, this paper contributes to a greater understanding of the underworld of art, as well as the nature and operation of organized crime throughout the world.

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# Examining the Effects of Mortgage Fraud on the Community

by Priyanka Sahajpal

## ABSTRACT

The purpose of this study is to identify the effects that mortgage fraud incidents have on the Greater Toronto Area(s). Since there is a limited amount of research on how the neighborhood is impacted by mortgage fraud, a qualitative research design was implemented to gain a better analysis. Seven individuals from Brampton and Mississauga, Ontario were interviewed. These individuals were either mortgage brokers or real estate agents whom had an in-depth knowledge of mortgage fraud incidents. Each interviewee was asked twenty-seven questions concerning their knowledge of mortgage fraud incidents, how they impact the community and strategies to prevent mortgage fraud from occurring in the future. The responses showed several patterns. A majority of real estate agents and mortgage brokers believed mortgage fraud exists in the GTA but is not a large scale problem as it is in the United States. They also discussed how mortgage fraud incidents cause communities a great amount of harm as they lead to foreclosures and an increase in tax assessment values, leading to a rise in strategies to combat mortgage fraud. The findings from this study can be used for individuals to understand the harms that mortgage fraud has on the community and to implement more strategies to reduce mortgage fraud. These findings can advance scholarly literature as they provide context on how mortgage fraud incidents are carried out in the Greater Toronto Area and the efforts that are being made to reduce them.

Mortgage fraud has been increasing at a steady rate across North America. Carswell and Bachtel (2007) define mortgage fraud as deceptions created by individuals during the lending procedure. Past research often discusses effects of mortgage fraud like foreclosures and high tax assessments. Past research has also discussed an increase in strategies to combat mortgage fraud when mortgage fraud incidents happen. A foreclosure is a situation that occurs when a home owner is not able to pay the mortgage and therefore, the bank closes the house, forcing the home owners to evacuate (Weintraub 2017). Mortgage fraud that occurs due to inflated appraisals leads to an increase in property taxes, which becomes a disadvantage to the owners (Careswell 2009). Organizations have employed several strategies to prevent the occurrence of mortgage fraud. The present study aims to shed light on the effects that mortgage fraud has on the community by interviewing real estate agents and mortgage professionals. It intends to look at the relationship between mortgage fraud and foreclosures, inflated property tax assessments and strategies to combat mortgage fraud.

This research study examined the following research questions:

1. Are houses likely to go into foreclosure in the Greater Toronto Area and how do they impact surrounding homes?

Hypothesis: Keeping past research in mind, respondents will report that there is an increase in mortgage fraud in the Greater Toronto Area, resulting in an

- increase in foreclosures and a decrease in home values. They will also report a strong relationship between foreclosures and disorder in the community.
2. How does mortgage fraud impact the tax assessments of homes?  
Hypothesis: A majority of respondents will report that mortgage fraud leads to an increase in tax assessments in the GTA.
  3. What strategies are implemented in the community to combat mortgage fraud?  
Respondents will report strategies relating to policy changes, implementation of protection services and educational programs.

This study contributes to past literature in several ways. A majority of studies on mortgage fraud have been conducted in the United States. Scholars of these studies have discussed an increasing amount of foreclosures resulting from mortgage fraud incidents. In this study, respondents explained that a majority of houses do not go into foreclosure as often as they do in the United States. Past studies have also discussed a strong relationship between mortgage fraud and increasing values of tax assessments while the respondents of this study explained that mortgage fraud has little to no impact on tax assessments in the Greater Toronto Area.

In the next section, I engage with past literature and critically analyze past studies that relate to how mortgage fraud impacts foreclosures, tax assessments and strategies. Second, I provide an insight on the methodological basis of the study, discussing the procedure of the research and an analysis of the interview participants. Next, I provide an analysis of the findings in which I discuss the procedure of how the responses were organized. In the results section, I discuss the responses that interviewees had about mortgage fraud and foreclosures, tax assessments and strategies. Foreclosures and tax assessments will be analyzed by examining how many respondents confirmed or rejected the notion that mortgage related foreclosures are increasing and if the value of tax assessments is inflating in the GTA. The discussion of strategies will be analyzed by examining how many respondents bring up current tactics that combat mortgage fraud and how effective they are. Finally, I discuss the implications of the research and compare it to past literature.

## LITERATURE REVIEW

### *Mortgage Fraud Community Effects: Foreclosures*

A foreclosure resulting from mortgage fraud has one of the most significant effects on the community. Stowell et al. (2012) and Greene (2017) discuss the process of a foreclosure. According to Stowell et al. (2012), individuals committing the fraud for profit scheme will look for home owners who are unable to make mortgage payments. The fraudster persuades the home owner to transfer ownership rights and lease payments to him/her (Stowell et al., 2012). Since the fraudster becomes the new homeowner, he/she attains a new mortgage on the house for the sake of obtaining money (Greene 2017). The fraudster also lets the home owner know that he/she will be making the mortgage payments but the fraudster does not have any intentions to do so (Stowell et al. 2012). The lender notices that mortgage payments are not being paid and therefore, notifies the true owners that the house will go into foreclosure (Greene 2017). In a fraud for shelter scheme, the fraudster provides false details about the home owners' income and employment to the lender in order to obtain a higher loan that he/she otherwise cannot afford (Greene 2017). When the lender notices that the mortgage payments are not being made, the house goes into foreclosure (White 2015).

### *Foreclosed Homes Leading to a Decrease in Nearby Home Values*

Since foreclosed homes look disorderly, nearby houses that are being sold will be forced to lower their selling price in order to attract home buyers (Duncan 2013). This becomes a disadvantage to the home owners who are planning to sell their property because they will not be able to make much profit from selling the house and will experience a hard time when paying their mortgages (Duncan 2013). Several studies have explored the ways in which foreclosures cause surrounding house prices to decrease. Immergluck and Smith (2010) predicted that the foreclosed homes in Chicago would impact nearby house values within a quarter of a mile instead of one eighth of a mile. Foreclosures in one area can easily be used to determine the value of the houses in the area close to it (Immergluck and Smith 2006). The results from this study discussed how the value of the houses decreased significantly when they were located closer to the foreclosed homes, more specifically, within a quarter of a mile (Immergluck and Smith 2006). Similar to the argument made by Duncan (2013), Carswell and Bachtel (2007) also discuss how foreclosures lead nearby property values to decrease. The scammer convinces the home owners that he/she will get them approved for the mortgage but conducts the process by misinterpreting information (Carswell and Bachtel 2007). Next, the house goes on sale at a higher price which causes prices of the surrounding houses to increase (Carswell and Bachtel. 2007). The market values change and once the banks discover that the mortgage payments are not being made, the house goes into foreclosure (Carswell and Bachtel 2007). This foreclosure process causes the values of surrounding houses to plummet (Carswell and Bachtel. 2007).

According to Carswell and Bachtel (2007), in some cases, when the house goes into foreclosure, it is not taken care of and often looks disorderly. Duncan (2013) points out that a disorderly, foreclosed house can have a negative effect on the possible buyer's outlook of the area. When appraisals of nearby homes are conducted, the appraisal compares the property with other properties (Weintraub 2016). If there are a high number of foreclosed homes in the area, this leads to decreased property values of nearby houses (Weintraub 2016). The buyers may not be willing to buy a home nearby a foreclosed property that looks disorderly and abandoned and therefore nearby houses are forced to lower their values (Munroe, 2012). Mian et al. (2015) used data from RealtyTrac.com which is a website that lists foreclosure rates in various states (Mian et al. 2015). They focused on years 2006-2013 and discovered that most of the houses that went into foreclosures were due to the reason of delinquent home owners who were involved in mortgage fraud schemes (Mian et al. 2015). The fraudsters did not help the home owners make the mortgage payments neither did they provide them with solutions, which caused their homes to go into foreclosure (Mian et al 2015). The homes that were near the foreclosed houses experienced a decline in property values (Mian et al 2015). One of the interesting findings from this study was that from 2008-2009, for everyone standard deviation increase in foreclosures, there was a 5-7% drop in surrounding house values (Mian et al. 2015). According to, Mian et al. (2015) the main reason why foreclosures leads to decreased house values is because the area needs a supply of houses that are affordable and can attract hesitant home buyers who are not sure if they want to buy a home near a foreclosed property.

Duncan (2013) explains that the appraisals are responsible for examining the house values. They take several factors into consideration when assessing house values like the neighborhood's architectural structure, school district, foreclosures and market value (Duncan 2013). They often compare selling rates of surrounding houses, if a house that is on foreclosure does not have interested buyers, then the values of the surrounding

houses decrease to get buyers interested in buying the houses (Duncan 2013). Similar to Mian et al. (2015), Baumer et al. (2013) obtained data through the RealtyTrac website. Baumer et al. (2013) discovered that foreclosed homes tend to lower values of nearby houses. They also discovered that a majority amount of foreclosures were due to fraud for profit incidents (Baumer et al. 2013). Foreclosures also demonstrate spillover effects, in which houses that are located near foreclosed homes tend to experience foreclosure years later (Baumer et al. 2013)

### ***Mortgage Fraud Community Effects: Tax Assessments***

According to a mortgage fraud report, “Mortgage Fraud: A Year in Review” (2009), the home that experiences a fraud for profit scheme goes on sale at a higher price which leads to nearby values also being inflated. This eventually leads to paying higher property taxes. In a study by Carswell (2009), neighborhoods in Georgia were examined. The first part of the study observed the amount of property tax assessment values in houses that were affected by mortgage fraud while the second part of the study looked at the sale prices in areas that experienced mortgage fraud and in areas that did not experience mortgage fraud (Carswell 2009). For the first part of the study, they found an increase in property tax assessment values in areas affected by mortgage fraud and in the second part of the study, they found an increase of sale prices in the mortgage fraud areas (Carswell 2009). The inflated house prices and property taxes force the home sellers to lower their sale prices as they will not attract any buyers if the prices of the home is high and the property tax is high (Carswell 2009).

According to Carswell (2009), the individuals who commit mortgage fraud carry out the crime in areas where house prices are already high because it is less likely to be detected. Therefore, they inflate the property value so it merges with the surrounding property values. Once an area experiences mortgage fraud, property taxes increase because the houses that experienced fraud for profit schemes tends to increase in property values leading the house sellers to lower their prices as their chance of attaining interested buyers is lowered if the property taxes are high and if the prices of the homes are high (Carswell 2009). As mortgage fraud occurs, the prices of surrounding houses increase leading to unknown market values of houses. Home owners feel the pressure of increasing high property tax assessments and property tax assessment administrators are burdened by an increasing amount of neighborhood complaints. Carswell and Bachtel (2007) argue that a link exists between mortgage fraud and high property tax assessments. They also came to a similar finding as Carswell (2009) in which the neighborhood experiences inflated property prices which changes the market value. According to Carswell and Bachtel (2007), home owners who cannot pay high tax assessment prices are pressured to evacuate the house which leads county assessment administrators to face numerous complaints from individuals in the community. This is more common in areas where there is a high population of seniors (Carswell and Bachtel 2007). Seniors in the community face high property tax assessments as well and since they are in their retirement time, they may not be able to afford the high tax assessments due to their fixed incomes (Carswell and Bachtel 2007).

The process to re-evaluate property tax assessments in the community can take longer than 2 years which does not help fix the true market value of the houses (Carswell and Bachtel 2007). This lengthy process leads to individuals not being able to afford high property tax assessments causing them to give up their house for the government to sell (Carswell and Bachtel 2007). Wagner (2015) finds that lenders experience a difficult time providing new mortgage loans because they don't know if the party they are giving the



loan to have an intention of committing mortgage fraud. Wagner (2015) also makes the similar observation as (Carswell, 2009) and Carswell and Bachtel (2007) in which neighbors living near the area that experienced mortgage fraud face exaggerated tax assessments. The house that goes into mortgage fraud leaves the victims and neighbors to face inflated tax assessments.

### ***Mortgage Fraud Community Effects: Strategies/Recommendations***

Several techniques have been found to prevent mortgage fraud successfully. First, Cole (2002) and Geffner (2009) look at techniques to help prevent the occurrence of mortgage fraud. Cole (2002) created a design that could potentially combat mortgage fraud. There is an application that the mortgage lender provides, which is inserted into a database. The computer has a separate database that lists real property values (Cole 2002). The information in the database about the real property values will be compared to the information on the mortgage loan application that the lender provided. If the information about the property value on the application does not match the true property value in the database, action will be taken to prevent fraudulent incidents from occurring (Cole 2002). This strategy is a useful way to detect mortgage fraud in its early stage. Geffner (2009) discusses the "Operation Loan Lies," a program launched by the Federal Trade Commission in which investigations are conducted on companies that have been involved in the misinterpretation of loans. This program can furthermore make the process of detecting fraudsters easier.

Not many strategies have been implemented to prevent mortgage fraud incidents from occurring. When these incidents do occur, not enough interventions are placed to compensate the victims or convict the offenders (Carswell and Bachtel 2007). The following section discusses recommendations that can help combat the mortgage fraud problem. Carswell and Bachtel (2007) emphasize the importance of getting lenders to inform home owners on what mortgage fraud looks like and techniques that can prevent them from experiencing it. Another recommendation would be to hire counsellors along with educators to educate potential buyers on how to detect mortgage fraud (Carswell and Bachtel 2007). An additional recommendation would be to lengthen the sanctions for mortgage fraud. Georgia released a Residential Mortgage Fraud Act that makes the sentences for individuals who have committed mortgage fraud longer. This has resulted in a decrease in mortgage fraud rates (Carswell and Bachtel 2007). An alternative method to prevent foreclosures would be to release a program that repairs foreclosed homes and sells them. A City Council has responded to the mortgage fraud foreclosure problem is by creating a program that takes care of foreclosed houses by repairing them and placing them on sale for the employees that live in the area to buy (Carswell and Bachtel 2007). As soon as these foreclosed homes attract sales, they get re-appraisals at the accurate market value which prevents surrounding houses from decreasing their values (Carswell and Bachtel 2007). Martin (2009) discusses how the appraisal industry needs to implement more strategies to prevent fraud. A major reason to how perpetrators of mortgage fraud get away with mortgage fraud incidents is the appraisers overlook fraudulent information (Martin 2009). Details on documents should be carefully observed. Martin (2009) emphasizes the importance of carefully looking at financial statements and that appraisers should get the independent financial statements from accountants. In order to prevent any mortgage fraud incidents from occurring, the appraiser should not be dependent on the rent roll but instead look into any lease documents. Sichelman (2012) recommends recent techniques that have been implemented to prevent mortgage fraud. If an individual is misinterpreting their income,

this can be checked on a website that displays how much individuals in that area are actually making (Sichelman 2012). There is also another website that provides details about whether the company the borrower has claimed he/she works in exists or not, it also displays the amount of employees in that company along with the revenue.

## **METHODOLOGY**

### ***Participants***

A total of seven individuals were interviewed from Ontario, Canada. All of the participants were selected from the Greater Toronto area, specifically, Mississauga and Brampton. These participants were real estate agents and mortgage brokers. Real estate agents and mortgage brokers were interviewed because they have expertise information about the real estate profession, mortgage fraud, foreclosures and strategies that they know about to combat mortgage fraud. A total of 6 participants were of racialized backgrounds while one participant was of a Caucasian background. All respondents were middle aged, five respondents identified themselves as males and two identified themselves as females. Purposive sampling technique was used, more specifically, expert sampling in which individuals with expertise on the real estate and mortgage industry were selected.

### ***Procedure***

Participants were recruited by contacting the parents of peers who are real estate agents, contacting real estate offices, and doing internet searches. The participants were asked to do the study and with their agreement of partaking in the study, they were given the project details and consent forms (See Appendix A and B). The participants were informed that their responses to the questions and their identities will be confidential. A snowball sampling method was used in which participants were asked to send the study's information to their colleagues and if they agreed to partake in the study as well, they were also contacted. Hard copies of the consent form were given to in person interviewees while the interviewees in the phone interviews were emailed the consent form. One participant did not want to be audio recorded and chose to type up her answers. The participants were first asked general questions about their profession and the relationships they have with individuals in the real estate conveyancing industry. They were then asked detailed questions concerning their exposure to mortgage fraud schemes like fraud for shelter and fraud for profit and how much they know about the mortgage fraud issue. They were also asked about their encounters with home foreclosures and inflated tax assessments (See Appendix C). The last set of questions asked if they were aware of any strategies that organizations have used to combat mortgage fraud and which parties they believe experience the most burden of mortgage fraud. After the interviews were conducted, they were transcribed.

### ***Analysis of Findings***

The responses to the interview questions were analyzed by using the transcriptions. The transcriptions were divided into three different sections. The first section was based on how much knowledge the interviewees had on mortgage fraud. All responses that discussed how much the interviewees knew about mortgage fraud were highlighted in yellow. The second section was based on how much the interviewees knew about foreclosures and tax assessments, all responses that discussed foreclosures and tax assessments were highlighted in green. The third section was based on how much the

interviewees knew about any strategies or policies that were implemented to combat mortgage fraud, all responses that discussed this were highlighted in blue. The responses were analyzed based on how similar and different each respondent's answers were. A majority of analysis was put into how similar the respondents' answers were to a particular question. When a majority of respondents have similar responses to a particular question, it provides a significant value because of the consensus that the respondents hold.

## RESULTS

### *Understanding Mortgage Fraud*

A majority of respondents discussed the relationship between mortgage insurers and real estate agents in the real estate conveyancing industry as a referral-based relationship. They discussed how real estate agents refer clients to several mortgage professionals to determine if they qualify for mortgage or not. Respondent 5 explains:

I have about three mortgage brokers that I deal with on a fairly regular basis. And if, if I have questions, so say for instance, if you're looking to purchase a home and you want to work with me as a real estate agent, and if you don't already have a, a mortgage set up or pre-approval or anything like that, I'll have you choose from one of the three that I suggest. Uh, you'll go through the whole process with them and, um, and then basically, uh, you'll come back to me and let me know how much you're approved for and how much of a down payment and then basically we would have a look at that budget. Now with regards to any communications with Genworth or CMHC or anything like that, it would be the mortgage brokers that would have that conversation.

All of the respondents stated that there has been a rise in mortgage fraud, a total of three participants indicated that they have heard about this rise in the news or have heard stories from their friends and colleagues. When asked what has led to the rise in mortgage fraud, three participants agreed that it is due to an increase of house prices and individuals who partake in mortgage usually cannot afford the mortgage; some individuals absolutely do not get qualified for the mortgage. Respondents 6 and 7 diverge from the other responses and discuss mortgage rule tightening which makes it harder for individuals to get approved for mortgage and therefore, they partake in the act of falsifying documents. Respondent 1 stated that technology has made falsifying documents and stealing identities easier, which leads to mortgage fraud occurrences. Respondents have discussed trends related to mortgage fraud; a common trend that they pointed out was the process of falsifying documents like pay rolls, information about the house and information related to their income. Respondent 2 describes a trend that a majority of respondents identified:

Mortgage fraud is going around like in a few different ways. First of all, like the mortgage agents they make the fake papers and stuff and sometimes, uh, what they do is, suppose one house is worth four hundred thousand, four hundred thousand, and some buyer, borrowers, they want to like take extra money out from that house so

what they show is like they show the value of their house as four hundred and fifty thousand. Like they just get the papers made for that. And, uh, earlier, like nowadays like appraisers come to appraise it but previously like appraisal never used to come to appraise the property. So they will just go away with four hundred and fifty thousand but the house will be worth four hundred thousand. And the fifty thousand dollars that they will get extra they will use for their personal things.

Respondent 1 pointed out a different trend of money laundering. The process of money laundering involves individuals obtaining money from various illegal sources in order to facilitate mortgage fraud. When asked about the perpetrator of mortgage fraud incidents, respondents gave various answers like immigrants, borrowers, mortgage agents, underwriters, mortgage advisors, desperate individuals and appraisers. The respondents were asked if they saw a rise in fraud for shelter and fraud for profit schemes. A majority of respondents stated that there has been a rise of fraud for shelter and fraud for profit schemes in Mississauga and Brampton. Respondent 1 believed there has been a decrease in fraud for shelter whereas Respondent 7 explains there has been an increase in fraud for shelter than fraud for profit. Respondent 1 explains:

I think there's been a down turn on the fraud for shelter simply because people are now aware that if the bank were to find out in the eleventh hour, um, that that house was acquired or the property's about to be acquired illegally.

In contrast, Respondent 7 explains:

So probably, I don't know about fraud for profit, um, but fraud for shelter probably because the, the same reasons, we're getting mortgage tightening, and high prices.

All of the respondents had similar answers when asked about the role of the borrower. They said that the borrower follows the pattern of initiating the scheme: they search for individuals who can get them qualified for the mortgage. They receive references on who they should meet with to get a qualified mortgage. Respondent 6 stated that the fraudster typically gets a hold of vulnerable buyers.

### ***Understanding Foreclosures and Tax Assessments***

Respondents were asked if houses that experience mortgage fraud are likely to go into foreclosure. Three of the respondents said that it is not likely for homes in Brampton and Mississauga to experience mortgage fraud, therefore the chance of the house going into foreclosure is low. The following response describes an answer that reflects the majority of respondents who do not agree that a house that experienced mortgage fraud will go into foreclosure:

Not necessarily, foreclosure is defined by people who made attempts to pay the bank and they can't keep up. With fraud, there is no foreclosure, the bank would put it up for sale, can get their money back or surplus.

Respondents 5 and 3 have a different opinion and agree that a house that experiences mortgage fraud will go into foreclosure. Respondent 5 explains:

I think so, cause, I mean, listen for someone to perpetrate a fraud, they have to provide inflated or overly inflated numbers of their income.

A majority of respondents stated that foreclosures are not as prevalent in Mississauga and Brampton as they are in some States in the United States. They stated that the small amount of foreclosures that happen in Mississauga and Brampton do not have a large impact whereas in the States, they experience a lot of foreclosures which impact the community in a negative way. When asked if mortgage fraud impacts tax assessments, three respondents said there would be no impact because they would stay the same and three said there would be an impact- it would either decrease or increase. Respondents were also asked if tax assessments affect the property values of nearby houses and a majority of respondents said that there would be no impact. Respondent 1 explains:

No because the city, um, has its own way of determining tax assessment. It's not determined by the, it is to some degree determined by the house value but it's more, it's not impacted by, by the fraud.

### ***Understanding Strategies to Combat Mortgage Fraud***

The respondents were asked if their organizations had any policies that would protect consumers against mortgage fraud, three respondents discussed title insurance. Respondent 1 elaborates on title insurance:

Uh, yah, I guess there is something called title insurance that when you buy a property, um, it protects you against fraud or any, any, um, any issues the property may have or the land may have on it. Um, so for that reason and it's very minimally, the minimal, the cost of that is very minimal, uh, as opposed to any other type of insurance that you could buy.

Respondents also discussed Real Track which collects information on real estate transactions and checks to see if the information provided is accurate, if the person is a citizen or not, and checks and where the person's income comes from. Genworth was also discussed by respondents. Respondent 6 explained that consumers must apply for mortgage insurance coverage if their down payment is less than 20%. This policy provides safety to consumers. When asked about how their organizations respond to fraud, a majority of respondents said their organization has not experienced fraud-related incidents but if it were to happen, the response would be very severe. Respondent 5 explains:

So, if it's found that an agent was negligent in way, shape or form, I mean there are fines, uh, up to fifty thousand dollars and you could lose your license among other punishments that, that can take place. So, um, that's not only for the sales person, it's also for the brokerage, so brokerages want to protect themselves in any shape or form to avert any sort of a fine. Or that black mark from RECO, so I don't particularly in my brokerage is zero tolerance for it whatsoever and we are, um, I've



never been in a situation where I've had any sort of instance with RECO or my brokerage, but I've heard of situations where, um, it has led to, um, sales people being fired, let go and /or um legal words. Now, again that's on the real estate transaction side of things. I don't know about the mortgage side.

A majority of the respondents (n=6) said the responses to real estate fraud are very effective because they have created strict policies that can easily catch fraudsters. When asked if criminal prosecutions play a role in deterring fraud, three of the respondents said there is a low rate of mortgage fraud in Canada, and the individuals who do commit mortgage fraud tend to get away with it. The other three respondents said the opposite: individuals who are caught are prosecuted because it is a violation. The last few questions asked about who is responsible for creating and controlling the fraud problem. A majority of respondents said it is the borrowers and mortgage professionals who are responsible for creating the fraud problem because the borrowers are the ones who are desperate and are looking for individuals that would get them qualified while the mortgage professionals are looking for vulnerable borrowers that can easily be persuaded. A majority of respondents said the lenders are responsible for controlling the fraud problem because they should have more strict policies that prevent fraud from occurring. When asked about which party is bearing most of the burden, three respondents said borrowers because they still have to pay off the mortgage and it will be hard for interested buyers to qualify for a mortgage because of the strict standards that are placed to prevent mortgage fraud. The other three respondents said it is the lenders that bear most of the fraud problem because they end up losing a lot of money when these fraud schemes occur. When asked which party should be bearing most of the burden, a majority of respondents said the lender should be bearing most of the burden because they are the ones who are lending the money and have to be more cautious of who they are lending it to, they are the ones who are responsible for any discrepancies that may occur.

## **DISCUSSION / CONCLUSION**

The objective of this research was to explore the effects that mortgage fraud has on the community in terms of foreclosures, tax assessments and strategies developed to combat mortgage fraud. The respondents provided an understanding on how mortgage fraud affects the communities in Ontario. Immergluck and Smith's (2010) study shows how homes that have been foreclosed due to mortgage fraud in the United States tend to decrease surrounding home values. The respondents from the current research provide context on the foreclosures in Ontario, Canada. A majority of respondents agree that there is a low rate of mortgage fraud incidents in Ontario and that not all houses that experience mortgage fraud go into foreclosure. The respondents discussed that the small percentage of houses that experience foreclosure do not affect the value of nearby houses. This may be due to the effective policies that the Greater Toronto Area has such as title insurance, implementation of organizations like Genworth and harsher sentences that deter future fraudulent acts from occurring.

Carswell (2009)'s study confirmed areas in Georgia that were affected by mortgage fraud had increased property tax assessments. Respondents from the current research had a different experience with property tax assessments. A majority of respondents provided perspective on how areas like Brampton and Mississauga create their own tax

assessment values and are therefore not impacted by mortgage fraud incidents. Carswell and Bachtel (2007) argued that there has been an increase in strategies to prevent mortgage fraud like increasing sentences for individuals who have committed mortgage fraud incidents or having educators educate buyers on how to look out for fraudsters. The respondents from the current study also discussed an increasing effort made by organizations in Ontario and Mississauga to combat mortgage fraud.

Several respondents discussed techniques to deter individuals from committing mortgage fraud like fines up to \$500, 000 and removal of licenses. Some respondents talked about how lending agencies have made it hard for individuals to commit mortgage fraud in Mississauga and Brampton. Lending institutions have created qualification standards for those who wish to be qualified for mortgages. One of the respondents talked about a website that lists several real estate agents and lists information about their infractions or of them being involved in any fraud-related activities. The results suggest that expanding this research to areas broader than the Greater Toronto Area would be useful as more information can be gathered about fraud for profit and fraud for shelter. To improve this study, interviews with more mortgage agents and mortgage advisors should also be conducted to achieve a better analysis of the mortgage fraud problem.

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# A Systemic Analysis of Identity Crime

by Kurtis J. Samchee and Basema Al-Alami

## ABSTRACT

This report is developed by UTM CON (University of Toronto Mississauga Colleagues of Neoliberalism). By using the identity crime case of Jimmy Park, we aim to shed light on some systemic flaws prevalent within Western neoliberal legal and corporate structures. Given that such structures facilitate the occurrence and pervasiveness of identity crime through various criminal loopholes and data-negligent procedures, we propose the *Thumbs Up* campaign as a plausible solution that aims to catalyze a generational shift in ideology at the individual-level. Its main aim is to leverage this ideological shift to mandate adjustments to flaws within the corporate structure which, as we shall see, trickles down to changes in the legal framework. This report presents this three-tier model (i.e., individual, corporate, legal) with the aid of routine activity theory and neoliberalism as the basis for our proposal.

## FOREWORD

Problem-based learning (PBL) is a pedagogical approach that outwardly responds to some of the educational deficiencies students tend to experience from the traditional lecture-based formats that dominate Western higher education institutions. Originally pioneered by McMaster University's Medical School in the late 1960's, PBL has recently experienced a renaissance in a wide range of disciplines within educational settings. This is telling for reason that PBL tends to allow for a setting which students engage with ill-defined real-life problems and thus become active problem solvers, researchers, and team players. The following report is the product of a twelve-week upper-year Sociology course on Identity Crime as designed and implemented by Professor (deleted text) at the University of Toronto. It shall be noted that all work compiled in the report was conducted during the duration of the course by my colleagues and I. Our group's solution to the assigned case was our best attempt at a "correct" solution where none exists—although every effort was made to blur the boundary between real-world and academic setting.

## INTRODUCTION

On January 9, 2012, Sang-Hyun Park pleaded guilty to five counts of identity crime including aggravated identity theft, money laundering and conspiracy to defraud the Internal Revenue Service. Initial estimates pegged Sang-Hyun (also known as 'Jimmy') Park and his co-conspirator, Ho Yu, fraud operation costing \$4 million (U.S. Attorney's Office 2013), where later estimates projected this number to be closer to \$5 million (U.S. Attorney's Office 2014). Curiously appalling is the fact that the members of Park's crew knew neither the real person to whom the stolen identity belonged nor any of the customers who had purchased the stolen identities. Although this is not an *unusual* case of identity fraud by any means, it raises some of the critical issues and complexities surrounding identity in the current era.

While today's information age has brought tremendous benefits to society, it has also increased the amount of personal information available fraudsters. Identity theft and fraud (IDTF) has become a growing problem worldwide, and the associated costs to consumers, banks, and governments are substantial (Archer et al. 2012). As evident in the above case, IDTF cases are complex and demand not only a profound analysis to understand the underlying problem but also in developing plausible solutions. Worse yet, fraudsters are innovative and swift in their approach to avoid detection while maintaining access to this classified information (May and Headley 2004). Before proposing potential solutions related to IDTF, it will first be beneficial to understand why and how these crimes take place. To do so, it is sufficient to observe the advent of speed and convenience that dominate the world of modern financial institutions. A sign on a Woodinville bank in Washington proclaims that the bank offers "business loans, up to \$50,000, in eight hours or less" (Jakobsson and Myers 2007:256). Online mortgage companies like IntelliMortgage brag about their "quick and easy" mortgage applications, which can be completed and approved "within 24-48 business hours" and "without a salesperson" (see IntelliMortgage 2016). Although these perks are beneficial to consumers, they also foster a lucrative environment for identity theft. Alarming, even while nation-state institutions seek to implement solutions to rectify this issue, identity crime rates remain on the rise (Levi 2017; Jakobsson and Myers 2007).

The purpose of this report is to discuss the 12-week pilot project as posed by UTM CON. UTM CON is an acronym for (U)niversity of (T)oronto (M)ississauga (C)olleagues (O)f (N)eoliberalism. The report addresses the core problem of identity crime cases like Jimmy Park by adopting a three-tier model which identifies problems at the individual-, corporate-, and legal-level. Our solution is contingent on the success of the proposed *Thumbs Up* campaign which aims to curtail identity crime by catalyzing a generational shift in ideology through creative branding and raising awareness on the costs of IDTF and corresponding prevention strategies. The report is arranged into five sections. The first section of the report sheds light on the scope of identity crime, citing empirical studies that draw insight into both the monetary and nonmonetary costs of identity crime to customers, businesses, and governments. The following section discusses the theoretical frameworks that we adopted to act as a 'guiding principle' when developing our solution. More specifically, this section offers an in-depth discussion of routine activity theory and neoliberalism, respectively. The fourth, fifth, and sixth sections of this report propose the three-tiered model as discussed above. At the individual-level, we will make clear why an effective awareness campaign is contingent upon a strong social media and virtual community presence. At the corporate-level, our focus is on the issuance of biometric technology and the related increased oversight of this using this approach. In this last section of this report, we will offer an analysis of the state within a neoliberal context. Whereas the former sections narrow the focus on immediate solutions, this section pays respect to long-term and sustainable outcomes.

## **SCOPE OF IDENTITY CRIME**

As discussed, identity crime inflicts costs not only to the individual victim but also to businesses and governments. According to the U.S. General Accounting Office (2002), identity theft in the U.S. cost consumers \$5 billion and businesses \$48 billion in 2005 (Jamieson et al. 2008). Similarly, in the same year, the cost of IDTF to consumers and businesses in Canada was \$2.5 billion while the cost to the government was \$5 billion (Jakobsson et al. 2007).



### *Costs to the Individual*

The most visible victims of identity crime are consumers. After falling prey to IDTF criminals, victims must undergo the lengthy process of restoring their credit records<sup>2</sup>. Furthermore, on many occasions, victims are forced to seek legal assistance, which also adds to the costs they suffer as a result of IDTF (May and Headley 2004). Due to the complexity of such processes, many victims may alternatively turn to paying off the debt associated with their credit record rather than filing a legal grievance. May and Headley (2004) report that victims are subject to costs that range anywhere between \$1,000 and \$5,000. Notably, this amount is conservative in its estimate as it does not account for the opportunity costs associated with the administration of these filings.

Align with this, IDTF victims also face nonmonetary repercussions (May and Headley 2004). The Free Trade Commission (FTC) and California Public Interest Research Group (CALPIRG) regularly report that many of the IDTF complaints they process include reports of nonmonetary costs.<sup>3</sup> Over 50 percent of these complainants report that they had been denied financial services as a result of the crime (May and Headley 2004) while 22 percent report being harassed by numerous credit companies (U.S. General Accounting Office 2002). Strikingly, about 10 percent of IDTF victims have been subject to criminal trial and conviction as a result of their identity being compromised (May and Headley 2004). May and Headley (2004) found that even after the crime is resolved, IDTF victims lose trust in the financial and legal systems and continue to feel a sense of privacy invasion and vulnerability. Considered in this light, the individual costs associated with IDTF has a direct negative bearing on commercial banking institutions.

### *Corporate Costs*

The costs of identity crime to the private banking and financial services sector are commonly separated into three main domains: (a) direct fraud costs, (b) loss aversion costs, and (c) indirect costs (Hameed et al. 2014). Direct fraud losses, as the name suggests, result directly from fraudulent purchases made by credit card thieves. Aversion costs include the measures businesses have to take after fraud incidents take place, such as educating consumers on fraud, staffing fraud detectors, and investigating fraud cases. Lastly, indirect costs reflect the reduced consumer confidence in the credit or financial services—which may or may not result in consumers cutting back their use of these services or forgoing them altogether. The American Bankers Association (2002) survey reports that the total fraud loss in American banks was \$2 billion dollars in 2000.<sup>4</sup> The survey also revealed that the total fraud losses related to identity theft for MasterCard and Visa increased from \$79 million in 1996 to over \$114 million in 2000 (May and Headley 2004). Figure 1 (shown below) illustrates the losses associated with credit fraud in the U.S. over the course of these four years accounting for direct, aversion, as well as indirect costs. The constant thread of IDTF losses suggests that the market for identity crime is at least keeping pace with the total credit fraud market.<sup>5</sup>

Figure 1: Credit Fraud Losses, Calendar Years 1997 through 2000

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<sup>2</sup> This includes activities such as filing grievance and/or insolvency claims, allocating and authorizing legal documents, reapplying for official government identity cards, etc.

<sup>3</sup> As cited in May and Headley (2004).

<sup>4</sup> As cited in May and Headley (2004).

<sup>5</sup> Figure 1 is adapted from data provided in U.S. General Accounting Office (2002).

Year	1997	1998	1999	2000
<b>Total Fraud Losses (000,000)</b>	\$659	\$735	\$784	\$1,013
<b>Identity Theft Related Losses as A Percentage of Total Fraud Losses</b>	10.5%	9.7%	10.6%	11.3%

### Costs at the State-Level

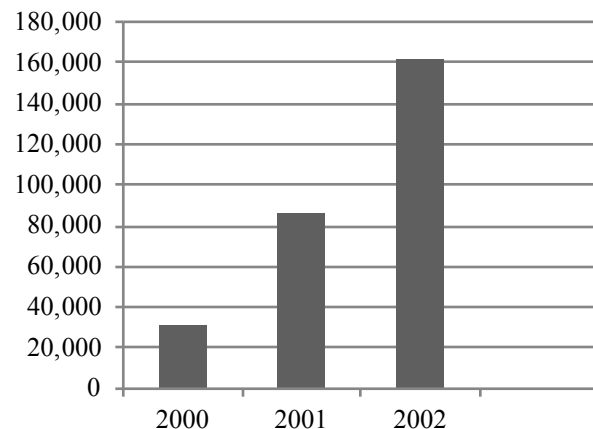
Naturally, governments are also affected by IDTF. Despite the difficulty of measuring government losses incurred by identity crime, estimates can be inferred by examining publications of federal agencies (Hameed et al. 2014; May and Headley 2004). Governments spend significant amounts of money for investigatory, prosecutorial, and educational operations. Governments also suffer direct costs through tax, Social Security and/or Social Insurance fraud (May and Headley 2004). The FBI reports that the average cost of a white-collar crime investigation costs the government about \$20,000 (May and Headley 2004). While identity theft and fraud crimes fall under “white-collar crime,” it is speculated that the average cost associated with such crimes is higher than that reported through white-collar crime (May and Headley 2004). Further, prosecution and incarceration are two major contributors to the costs of IDTF. According to the U.S. Government Accounting Office (2002), prosecution per identity crime case costs governments over \$11,000.

Figure 2 illustrates that the prevalence of and responses to identity theft seem to be growing.<sup>6</sup> Given the persistent rise in identity theft and fraud crimes, the costs outlined above can be vital in motivating the public, businesses, and governments to protect themselves against IDTF.

### THEORETICAL BACKGROUND

To address the problem identified in the Jimmy Park case, we utilized two theoretical models: routine activity theory and neoliberalism. These two frameworks serve as ‘guiding principles’ for our proposed solution. While routine activity theory helps explain *why* identity crime occurs, neoliberalism clarifies *how* a systemic approach is practical for developing

**Figure 2: Total Identity Theft Responses by Year (2000-2002)**



<sup>6</sup> Figure 2 is based on data from May and Headley (2004).

solutions to the problem. Routine activity theory and neoliberalism are discussed below, respectively.

### ***Routine Activity Theory***

Routine activity theory (RAT) is a criminological theory of crime which posits that there are three factors that can help explain why individuals engage in criminal conduct: a motivated offender, a suitable target, and the lack of a capable guardian (Lilly et al. 2014). This theory of crime focuses on the criminal event and its situational factors rather than on individual criminals themselves. Potential criminality and motivations are assumed—criminals are thus ‘waiting to act’ wherever an opportunity emerges (Lilly et al. 2014). Granted, one plausible solution would be to bolster capable guardianship to ensure that suitable targets (i.e., the public) are protected under the watchful eye of the supposed guardians. However, it is safe to assert that traditional applications of this theory involved physical interactions—cyber crimes pose unique challenges to this theoretical model.

In light of this critique, a study conducted by Reyns (2013) suggests that RAT can be applied to identity fraud despite its impersonal nature. The reasoning behind this is that identity crime is best understood by evaluating the *criminal event*—in contrast to the *criminal actor*. As major networking platforms such as Facebook, Instagram, and Twitter have grown, so has the amount of personal information available and hence the number of suitable targets for identity crime. By focusing on *events*, such as interactions that occur on Facebook, Reyns suggests we focus on reinforcing guardianship and hence limit the opportunities for identity crime engagement.

Align with this resolution, some studies have indicated that bolstering guardianship reduces the propensity of engagement in identity crime. Williams (2016), for instance, finds a negative correlation between capable guardianship and the rate of online identity theft victimization. He later argues that adopting both individual-level and national-level guardianship over the internet can lead to a profound decrease on the levels of engagement in online identity theft. Based on this logic, we appropriate this theory as a guiding principle for addressing the problem of systemic flaws within corporate and legal structures. By bolstering capable guardianship, criminal opportunities become less rewarding for motivated offenders to pursue. In conjunction with this, we suggest some technological safeguards outlined in Section 5.11.

### ***Neoliberalism***

Neoliberalism is an economic and political ideology that is most prevalent in Western capitalist countries (Snider 2008; Snider 1993). This ideology is intricately linked to the *laissez-faire* approach which condemns state interference in the market and advocates for allowing market forces to shape the state’s economy and policies (Passas 2000). Forms of neoliberal expression are vested in the advocacy for free trade, open markets and the privatization of public services (Dean 2014). Scholars (Caplan and Riccardelli 2016; Stark 2010; Tanner 2004) have noted six, closely aligned, core neoliberal principles:

- (i.) *individualism*: the individual (as opposed to the community or institution) is the primary unit of society
- (ii.) *freedom of choice*: refers to individuals having the right to make decisions and exercise free will without being influenced or coerced by the state, or any other group in a position of power

- (iii.) *rationality*: the individual's capacity to weigh the relative costs and benefits of a situation and make the decisions that maximize benefit, and minimize cost
- (iv.) *self-interest*: the nature of how individuals make decisions on their own, and for their own sake, rather than being motivated by outside sources
- (v.) *utilization of market mechanisms*: the context in which the individual makes free choices using principles of rationality to solve social problems and meet human needs
- (vi.) *non-intervention of the state*: the belief that the market can provide for human needs and improve the human condition –inversely proportionate to the extent to which the state is said to intervene

The key notion here is that of accountability, such that the state gradually shifts away from paternalism and allocates more responsibility to the citizen. We attempt to utilize these trends by proposing a solution that intends to 'guide' individuals toward more *informed* choices, ultimately achieved through the *Thumbs Up* campaign.

## INDIVIDUAL

A foundational component of our proposed solution rests at the individual-level. The *Thumbs Up* campaign was launched to spread awareness on the issues associated with identity crime and the corresponding preventative measures. The literature suggests that the effectiveness and power of these types of campaigns rest in their ability to shape public perceptions through engagement (Scheufele, Shanahan and Kim 2002). Given, our group made use of a multitude of avenues which included our own website, a public petition, as well as social media platforms Facebook, Twitter, and Snapchat. Additionally, an informational leaflet was created and distributed (see Figure 3, listed in the Appendix) to the public which included information provided on our website.

### *Website*

A website was created for free by internet service provider Weebly (see Figures 4, 5, and 6 listed in the Appendix). The internet has undoubtedly assumed a vital role in today's society. Websites have become the first point of contact between businesses and customers, or organizations and the public (Lin 2013). UTM CON's website includes an 'About Us' page which provides a description of our pilot project, mentioning our goal to bring awareness to the issues associated with identity crime by targeting youth to curb the growing statistics of identity crime. The 'Events' page includes any upcoming events in our campaign. The 'Contact Us' tab provides links to our social media accounts and other relevant contact information. Lastly, the 'Petition' tab—central to the campaign—serves as a link between the individual and corporate levels of our solution.

### *Petition*

The petition (see Figure 7 listed in the Appendix) creates an avenue for the public to voice their support as well as to serve as a link between the individual-level and the corporate-level by creating a demand or pressure from consumers to reach banks and credit cards companies. This works through the public demand for corporations to implement and regulate more secure methods for personal identification. A petition also directs attention away from matters of individual concern towards those of the larger community (Weeks et al. 2015; Scheufele et al. 2002). The 'third person effect' also plays a role here. The idea is that trends in the perceptions and in the opinions of others play an important role in influencing *other* individuals' attitudes on an issue and behaviour

though evolutionary-based social forces (Mutz 1989). Thus, a petition gives way to a public ‘third person effect’ where every individual ‘signed on’ increases the power of a positive public perception.

### ***Social Media***

UTM CON also has a strong social media presence (see Figures 8, 9, 10 listed in the Appendix). Through social media, we intend to reach the public and increase exposure through posts and shared articles on various topics related to identity crime and the progress of the campaign. This is integral living in the ‘Social Media Era’, where, in the past decade, the number of users of social networking sites has expanded immensely. Recent numbers from the U.S. show that 74% of ‘online adults’ now use at least one social media site (Kaplan and Haenlein 2010). Social media not only creates direct links between the public, our organization, and the mass media, but they are interactive, engaging, and involving. This presence is especially significant when trying to capture the attention of our target population—the *young and digital-savvy citizens* (see Johnson and Kaye 2015). Therefore, by utilizing one of the most important mediums for public online engagement, the petition makes the awareness campaign more influential by encouraging the collective knowledge, opinions and behaviours.

In sum, the *Thumbs Up* campaign aims to increase awareness about the pressing issue of identity crime, particularly targeting youth. UTM CON plans to achieve this by encouraging change on a wider and more socially-engaging scale. Our approach leads individuals to take the required steps to prevent themselves from becoming identity crime victims through awareness and education, thereby leveraging accountability within an existing neoliberalism framework. Furthermore, our target campaign has high potential in its ability to foster micro-level interactions while attaining a macro-level scope.

## **CORPORATE**

Given the scope of harm associated with IDTF cases, it is important to reduce the risks of their occurrence. Not only will this reduction benefit customers, but it will also minimize legal and corporate costs associated with detecting and fighting identity crime. As discussed, customers suffer the greatest monetary and nonmonetary costs of identity crime. It is impossible, however, for the public to exercise full control over potential uses and misuses of their identities (Vacca 2003). The core definition of identity itself is problematic. That is, what constitutes identity in today's society are base identifiers, such as one's full name, date of birth, gender, age, race, ethnicity, hair color, and height. Additionally, there are also numerical identifiers, such as Social Security or Social Insurance which also dominate today's security systems (May and Headley 2004). Such identifiers can be stolen, changed, and fabricated with relative ease given that this information is stored within imperfectly-secure systems, however. In contrast, complex identifiers, such as fingerprints and DNA, are much more difficult to replicate and/or fabricate. Granted, the public possess the power to *demand* oversight and preventative measures at the corporate level—UTM CON's petition is aimed at promoting this.

Before delving into the specifics of biometrics, consider some global initiatives that have been adopted to combat corruption and identity crime outlined in Figure 3.

### **Figure 3: Initiatives for Combating Corruption (Hameed et al. 2014)**

<i>Organization</i>	<i>Description of Approach</i>
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United Nations	The United Nations has enacted a number of resolutions that address the problem of corruption. In 2003, 140 members in UN signed the UN Convention against Corruption (UNCAC). Each signatory must address prevention of corruption, law enforcement, international cooperation, resource recovery, and information exchange.
World Bank	The World Bank holds that fighting corruption is the key to global economic prosperity. This organization has supported a number of countries in their attempts to impose advanced security measures in order to fight corruption (such as fraud). The World Bank also hosts the International Corruption Hunters Alliance annually, which aims to leverage technological advancements that help tackle global corruption.
Transparency International	Transparency International, known as the Global Anti-Corruption Coalition, is a partner with over 100 local councils worldwide. This non-governmental organization works with governments, the private sector, and civil societies worldwide to detect the number of, and reduce, corruption cases worldwide.

In the United States, the most specific federal statute regarding identity crime is the 1998 Identity Theft and Assumption Deterrence Act (May and Headley 2004). However, due to the Act's loopholes—such as the vague language and the exclusion of certain online patterns that can be used to produce false identity documents on the internet—criminals were still able to produce false identities and hence evade the Act. Thus, the House of Representatives and the Senate passed the 2000 Internet False Identification Prevention Act (May and Headley 2004). This act criminalizes specific activities and templates adopted by identity criminals, including those carried out online (May and Headley 2004). Furthermore, according to Section 56(1) of the Canadian Criminal Code, anyone found guilty of identity crime is “guilty of an indictable offence and liable to imprisonment for a term of not more than five years; or is guilty of an offence punishable on summary conviction” (Justice Laws Website 2009). And yet despite these stiff legislations that address identity crime, identity theft and fraud crimes remain on the rise. We now turn to a method that attempts to circumvent the credit check procedure by adding an extra layer of security with minimal startup and operating costs.

### ***Biometrics***

A secure preventative measure that businesses can deploy is biometric technology. Biometrics refers to a set of authentication techniques that rely on measurable biological characteristics (Jakobsson and Myers 2007; Vacca 2003). Hence, a biometric security system refers to a computer hardware and software systems designed to verify individuals through complex identifiers, such as DNA, fingerprint identification, hand geometry, voice verification, retina scanning, earlobe, and typing pattern recognition. The most commonly used biometric technology in the commercial sector is finger-scanning identification (Vacca 2003). Encouragingly, there are a number of finger-scanning systems already on the market. Among them, some analyze unique marks on the finger called ‘minutiae points’ (Vacca 2003), where others make use of the pores on

your fingers and the distance between your fingerprint ridges (Jakobsson and Myers 2007). According to the criminology literature, finger-scanning is considered a highly mature biometric technology with cost friendly installations (Walker 2012; Jain 2007). Below are a number of examples in which finger scanning has been used for consumer identification and verification:

- The Bank of America adopted a program that uses finger scans as a way to identify customers. Before using the online banking system, customers enroll a finger scan on a chip attached to a smart card. Customers then place an authentication finger on a scanning device connected to their personal computer. If the fingerprint on the scanning device matches that on the smart card, access is allowed (Vacca 2003).
- Canadian banks are currently investigating and testing a thumb printing system for check-cashing services. The system is designed to identify non-account customers. A similar thumb printing system is currently adopted by a number of banks in 50 states across the United States (Vacca 2003).
- An American hotel chain announced that all of its branches will start using a finger-scanning system for check-in procedures. This mimics what many Japanese hotels have already implemented (Vacca 2003).

These examples reveal that biometric technology is practical in commercial applications and the literature agrees with this as well. According to the majority of research studies we encountered, fingerprint scanning provides the easiest and most accurate authentication (Walker 2012; Jakobsson and Myers 2007; Jain 2007; Vacca 2003). By this token, our *Thumbs Up* campaign proposes that businesses utilize the touch ID features already present on most smartphones in that customers are required to use this feature to log in to their bank accounts. Notably, these same features may be also implemented at brick and mortar financial institutions for enhanced security vis-à-vis.

### ***Some Relevant Limitations***

Despite the advantages associated biometric technology, vulnerabilities remain. An overview of the authentication procedure will make this clear. The first step is the biometric identification which requires a signal acquisition from the user (i.e., fingerprint scan). Next, the processing stage involves a unique representation of the user’s biometric signal (in terms of finger minutiae or pores). This unique representation is stored as a template in a database that identifies the individual. To authenticate the individual's identity, the database compares and matches the newly acquired fingerprint with the representation in the index. Based on how close these two templates match, the database either grants or denies access to the bank or credit card account. Even though this process of identification seems to be complex and secure, the system is still vulnerable to attacks (Vacca 2003). Moreover, Figure 4 identifies eight possible ‘attack points’ within this system.

### **Figure 4: Eight ‘Points of Attack’ in Biometric Technology**

<b>Point of Attack</b>	<b>Description</b>

<sup>7</sup> Figure 4 as cited in Vacca (2003).

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<b>1. Sensor</b>	A fake finger, a copy of a signature, or a facemask can be used by identity criminals to present fake biometrics at the sensor.
<b>2. Submitting Biometrics</b>	ID criminals can resubmit previously stored biometric signals, allowing the criminal to bypass the sensor. An example of this includes presenting an old copy of a fingerprint.
<b>3. Feature Extraction</b>	Identity criminals can also use hacking programs designed to breach the security of a computer system, which supersedes the feature extraction process.
<b>4. Feature Representation</b>	Criminals can interfere in the biometric feature representation process by replacing features extracted from input signals with fraudulent feature sets.
<b>5. Matcher</b>	Criminals can also corrupt the matcher to produce desirable matches.
<b>6. Stored Templates</b>	The stored templates can be distributed to several servers. Attackers can tamper with one of the templates to either deny customers access to their account or give fraudsters illegitimate access to others' information.
<b>7. Channel between Templates and Matcher</b>	Criminals can also attack the channel between stored templates and the matcher. The channel through which the templates are sent to the matcher could be hacked and modified.
<b>8. Final Decision</b>	Criminals can also override the final match decision by modifying the official match scores.

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There are, however, several security measures that can be adapted to hinder such attacks. For instance, Vacca (2003) proposes that fingerprint pulses can stop attacks at Point 1. He also holds that encrypted channels of communication can thwart attacks at Point 4 while having the databases and templates at secure locations can stop attacks at Point 5, 6, and 7. Lastly, using complicated codes can reduce attacks at Point 8 (Vacca 2003). As with any new technology, despite the advantages associated with it, weaknesses have the capacity to undermine its function and hence play a large role in the overall acceptance.

### *The Current State and Future of Biometrics*

Biometrics technology has been proven to be an effective way of combating identity theft and fraud in the field (Jain 2007; May and Headley 2004; Vacca 2003). The interest of businesses in biometrics has increased significantly with the rise of online banking and the concern of possible fraud (Hussain 2015; Nelson 2011). Recent estimates reveal that online banking has reached 423.5 million people worldwide, or 28.7% of the

total internet audience (Sikdar, Kumar, and Makkad 2015). Biometric technology occupies a unique position in that it has the potential to make a substantial impact on the bottom line for consumers, corporations, and governments. Taking note, MasterCard International estimated that deploying biometric technology would reduce credit card fraud by 93 percent (Vacca 2003). A number of technology experts also expect that the use of passwords for e-mails, and the internet in general, will come to an end very soon and will be replaced by a system that relies on more complex identifiers—such as fingerprint scanning (Ragan 2014; Unar et al. 2014).

In order for biometrics to work successfully, corporations must implement some oversight and regulation to ensure secure and encrypted channels of communication. Some regulatory changes, which UTM CON encourages within corporate institutions to minimize the prospects of identity crime, is establishing an independent board of directors. The board of directors primary responsibility would be to ensure effective oversight through strategic planning, operational management, and international relations. We realize that this initiative requires investment yet realize that quantitative analysis may hinder the true benefits of this enterprise. We now turn to one.

### ***Reputational Risk Management (RRM)***

A key driver for corporate adoption of biometric technology is the consideration of reputational risk management (RRM). RRM anticipates negative perceptions from its customers, investors, and counterparts which can, in turn, affect an organization's future leverage with these stakeholders (Fiordelisi et al. 2013). Studies have shown (Power et. al 2009) that reputational risk has become more than just an asset that organizations are interested in protecting but rather lies at the core of their respective business strategies.

### ***The Success of RRM***

There are three, tightly linked, reasons that motivate corporations to prevent reputational risk: profit maximization, competition, and consumer loyalty. Although not the standard of yet, biometric technology is slowly making its way into commercial application. This, of course, holds promise for entrepreneurs and investors to find a way to allow these technologies to reach scale. When considered in light, in order for businesses to stay competitive, adopting biometric technology would become then become an absolute requirement—benefits to consumers, businesses, and the government would all follow.<sup>8</sup>

Align with this 'standard' for decision-making, take, for instance, the recent uptake in consumer demand for 'green' corporate operations. Griskevicius et al. (2010) found that 'going green' resulted in significant returns to businesses. These ranged from tax rebates to increased interest from investors and customers to supplier satisfaction. As a green reputation was recognized as an ethical approach to conducting business and essentially set the standard for business operations, competitors began to follow suit and were forced to impose their own 'green' initiatives. In this way, 'going green' became the norm (Norheim 2015; Godfrey 2011). As corporations must continually pay close attention to the demands of consumers, social responsibility in intertwined with loyalty (O'Callaghan 2007). The case of 'going green' represents just one among many, where the implementation of biometric technology would resemble most, if not all, of the common features relating to this social concern with respect to corporate image.

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<sup>8</sup> See Fiordelisi and colleagues (2013) for an overview of the reputational damage and capital investment correlations.

## LEGAL STRUCTURE

Due to the fact that this solution is implemented within a neoliberal theoretical framework, the role of the state is minimized both in its participation and contribution to it. The following will detail the role of the legal structure (i.e., laws and regulations) in the proposed solution as well as the accompanying justifications for why and to what effect the *Thumbs Up* campaign will bolster public demand for increased oversight and biometrics leading up to these changes.

### 6. 1. State-level Bureaus

The role of the legal structure will be to establish offices within governmental service stations where credit card applications supplied by credit card companies are validated. This will allow both corporations and the state to ensure that individuals who wish to obtain a credit card are who they claim to be. Each service station will be a separate office specifically designed and managed by the state where staff will validate applications for credit cards once the social security card of an applicant is verified as their personal property. This process is meant to emphasize the ‘physical nature’ of identity, making it extremely more difficult for fraudsters to claim stolen identities.

Thus, by having the legal structure take this particular role in regards to regulating access to credit cards, in the long run, it ensures more effective protocol for identity confirmation. Importantly, this regulatory change is a long-term goal of our solution. We acknowledge that implementing these changes will indeed take time and require budgetary allocation. Counter to this, this mechanism is necessary to alleviate the systemic flaws we have identified here throughout.

### *Theory versus Practice*

It is important to now justify *why* the legal structure is being assigned this regulatory and preventive role, which rests on the disparities that emerge between *de jure* (i.e., law on the books) and *de facto* (i.e., law in action) law. By identifying this disparity, our solution uses this analysis to argue why regulatory and biometric changes at the legal level are necessary measures in light of the futility of attempting to endlessly change the laws and police actions under which identity crime is currently monitored and pursued in the state (Black 1972).<sup>9</sup> Currently, the state does have specific legislation that criminalizes identity crime<sup>10</sup> and many other state laws do exist—each with differing perceptions and understandings of identity crime. Most highlight the function of ‘swift’ and ‘certain’ justice for identity criminals (Allison et al. 2005). We must examine how successful these laws are in action, however.

Research into the clearance rates and limitations that affect the success of enforcing federal and state laws against identity crime reveal the disparities between law on the books and law in action. It has been found that actually being able to secure an arrest for identity theft is actually quite difficult. In the United States, for example, jurisdictional authority to pursue certain cases, departmental resources to address identity crime, and an overall lack of willingness to cooperate in investigations on the part of larger financial institutions (Allison et al. 2005) represent significant obstacles in pursuing justice for this sort of criminal activity.

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<sup>9</sup> As cited in Gould and Barclay (2012).

<sup>10</sup> Most notable is the Identify Theft and Assumption Deterrence Act of 1998 (Allison, Schuck, and Lersch 2005, U.S.).



Given this, a tenable solution towards identity crime would be to regulate or prevent it before it happens—rather than go chasing it after it occurs. Thus, enhancing capable guardianship at the legal-level plays an important role in combating identity crime. In order to reach this level, however, public demand would have to be potent enough to sway a state-level response. Unfortunately, as Doob and Webster (2006) make clear, Canada has a legal system that is structured to *prevent* public demands from being able to affect federal criminal law.<sup>11</sup> The Canadian legal structure operates quite contrarily to that in the United States, where public demand has considerable influence on government administration. While it is true that our proposal would seemingly be more effective in the United States, the case represented here demonstrates that public demand has a profound impact on public policy.

In sum, by shaping an awareness campaign aimed to enhance public demand for the integration of biometric applications into identity applications, we attempt to influence policymakers to enact more desirable legislation and regulation towards identity crime. By virtue of this, we attempt to better mend the current disparity between *de jure* and *de facto* identity crime legal structure. The legal-level framework discussed here outlines a sustainable long-term initiative that leverages citizen demand in democratic states.

## CONCLUSION

The overarching goal of this report is to encourage the implementation of DNA-based forms of identification within commercially-based financial institutions in order to limit identity crime victimization. By creating an ideological shift guided by neoliberal principles at the individual-level, we argued how this thread can plausibly reach both corporate- and legal-level structures. At the individual-level, the goal is to curb the growing statistics of identity crime by increasing public awareness on this issue. This is based on the neoliberal assumption that individuals make choices rationally and with self-interest to minimize risks maximizing benefits. Once the individual-level reaches the corporate-level through effective petitioning, biometric technology adoption will ensue. Finally, the legal-level will be approached through long-term implementation strategies regarding oversight as large-scale corporate decisions, while serving as state-to-market intermediaries, continually achieve legitimacy. Understanding these dynamics contextualizes social-policy stalwart Richard Titmuss claim that “the interests of the whole are not met through the needs of the individual; rather, the interests of the individual are met through the need of the collective” (Caplan and Riccardelli 2016).

## PILOT STUDY RESULTS

As stressed, the central feature of UTM CON’s grassroots movement is the *Thumbs Up* campaign. The information age has allowed several campaigns (non-profit or otherwise) to take off without substantial financial investment. The Movember Foundation, for instance, was created in 2003 when a small group of men in Melbourne,

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<sup>11</sup> A large part of this is due to the separation of Canadian federal and provincial systems. Here the Federal government is responsible for establishing the law wherein the Provincial and Territorial governments are responsible for enactment of the laws (Doob and Webster 2006). The effectiveness of this approach lies in the fact that the provincial and territorial systems are guaranteed to be the ones most impacted by public demand and thus acts much like a safeguard for the Federal government to be influenced by public pressure.

Australia grew moustaches for charity in a bid to raise awareness about men's health (both mental and physical). This organization began with a simple action and a bold message: "Stop men from dying too young." They are now currently ranked 55<sup>th</sup> by the Non-Governmental Organization (NGO) advisor in their annual report (2015, as cited in Movember Foundation, 2016). Similarly, Mothers Against Drunk Driving (MADD 2016) was founded in 1980 by Candy Lightner, a mother who lost her 13 year-old-daughter to a drunk driving incident. Lightner began by raising awareness about the dangers associated with impaired driving *without* any of the advantages and promise pertaining to social media and the internet—they now hold at least one office in every state in the U.S. and every province in Canada. These organizations serve as examples which show how an individual concern can transform into a national message through fervor and fanaticism. Our campaign attempts to resonate in the same way.

Putting this optimism aside, it is important to identify some inherent limitations of this component of our solution (Icha and Edwin 2016; Jungbok 2015; Powers and Yaros 2013; Dillard, Weber, and Vail 2007; Levine and Lopez 2005). The single most apparent limitation is the fact that our campaign may not go viral. That is, people may either not feel that identity crime is a pressing issue or may be sincerely disinterested in it. In response, we tailored the *Thumbs Up* campaign toward youth, in hopes of creating a generational shift in ideology via heightened awareness and increased personal responsibility. This is strategic for the reason that the campaign takes advantage of an existing trend, namely, neoliberalism. The idea is to frame the notion of keeping personal identity protected as 'savvy' and to essentially start a 'movement' towards individual accountability and corporate partnership. In plain English, we want to make identity theft personal protection *cool*. A pressing issue is operationalizing the progress of the campaign and providing objective evaluations of it. Third-party intervention can assist in this while an internally-appointed committee can provide objective valuations. With this said, there is good reason to believe that our proposed campaign has a very high ceiling in terms of growth and awareness, as evidenced by the initial success of the 12-week pilot project that took place. Alas, our solution is, by no means, a quick fix and must be supplemented from interest parties and prioritized among both private and public sector leaders.

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**AKARAMAH KHAWAJA** is in his last year at University of Toronto (Mississauga) specializing in Criminology, Law and Society. In addition, he possesses a Bachelor of Business Administration degree from University of Windsor. His love for writing began when he started studying philosophy in his previous degree. During this time, he kept a notebook in which (to this day) he regularly writes his views, opinions, theories, and philosophies. The combined love for philosophy and writing motivated him to pursue a career in the legal field. Akaramah is highly curious and always in pursuit of knowledge. He derives the answers to these questions through qualitative and quantitative research techniques – which he learned during his time at the University of Toronto. In addition, Akaramah believes that knowledge ought to be shared universally. To this regard, he has created and regularly maintains an academic blog online. This blog has reached almost 40,000 views. The contents of this blog touch upon a multiplicity of disciplines, ranging from philosophy, business management, sociology, criminology, and even biology. Akaramah's motivation to achieve success in his life has been largely attributable to his marriage at the young age of 23. He also has a four-year old son. His insatiable drive in the pursuit of upward mobility is largely driven by these circumstances. To this regard, he would like to sincerely thank, first and foremost, his wife and son for assisting him in his academic endeavours. Secondly, he would like to thank the University of Toronto for granting him various opportunities which allow him to do more than simply complete a degree.

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**PRIYANKA SAHAJPAL** is a University of Toronto-Mississauga alumna, who graduated with a double major in Criminology and Psychology. She has been involved in the Sociology and Criminology Society as VP Social and has a broad range of research interests in the areas of criminology and social work. She hopes to study racial profiling, youth in conflict with the law, immigration, domestic abuse, the mental health of South Asian men and women, as well as gender in her future endeavours. She also wants to open her own clinical practice to work with immigrants with the goal of providing them with resources and support to make their settlement easier. As a South Asian immigrant, Priyanka believes there is a huge mental health stigma within the South Asian community that prevents individuals from talking about their mental health struggles. She has a goal of eradicating this stigma by educating the South Asian community on the importance of seeking professional help, and providing individuals with resources that aim to improve their mental health vulnerabilities. Priyanka believes that success involves failure; it pushes people to improve their outcomes and become the best version of themselves.

**KURTIS J. SAMCHEE** completed his bachelor's degree at the University of Toronto with high distinction and moved on to study public policy at Carleton University in Ottawa, Ontario. He has a broad range of research interests that extend anywhere from crime, punishment, and justice, to Platonic realism, from environmental sustainability to Gestalt psychology, and from morality to Weberian rationality—every now and then he will drop in on a calligraphy class. Now towards the end of his academic term, Kurtis has aspirations to begin a master's degree in business administration.

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