

**Journal
of
Multidisciplinary
Research**

Vol. 16, No. 1

Spring 2024

Journal of Multidisciplinary Research

ISSN 1947-2900 (print) • ISSN 1947-2919 (online)

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Journal Web Address

<http://www.jmrpublication.org>

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Mission Statement

The mission of the *Journal of Multidisciplinary Research* is to promote excellence by providing a venue for academics, students, and practitioners to publish current and significant empirical and conceptual research in the arts; humanities; applied, natural, and social sciences; and other areas that tests, extends, or builds theory.

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Editorial

Dear Colleagues,

At this time of upheaval and out of control wars around the globe, I cannot help but think about a sentence from the Bible: “Torah scholars increase peace in the world.” Here at the JMR, we are not stopping wars, but at least we are doing our part by providing a platform for researchers and scholars to publish current and significant empirical and conceptual research with significant “value-added” contribution in their field – hopefully, doing our share to “increase peace in the world.”

This Volume 16 – Number 1 edition of the JMR features interesting and stimulating research articles, student articles, book reviews, and an interesting work by a photographer. Collaborative and interesting research from Stockholm University in Sweden and Arizona State University demonstrated a self-management strategy to reduce smoking in males. Another collaborative study from West Chester University of Pennsylvania, Chester County Health Department, and MedStar Health looked at how to reduce high-risk alcohol consumption and associated consequences by utilizing a cross-sectional secondary data analysis. A University of Primorska, Slovenia, study looked at Germany’s tax revenue and administrative cost reduction methods. A Thomas More University article discusses nontraditional strategies to find and retain STEM faculty in higher education. An interesting collaborative case from Indiana University of Pennsylvania, Saint Joseph’s University, and Central Connecticut State University introduces students to the concepts of auditing and internal control processes. A thought-provoking article from Florida Gulf Coast University explored fundamental questions including whether an agreement is “fair,” “lawful,” and “good.”

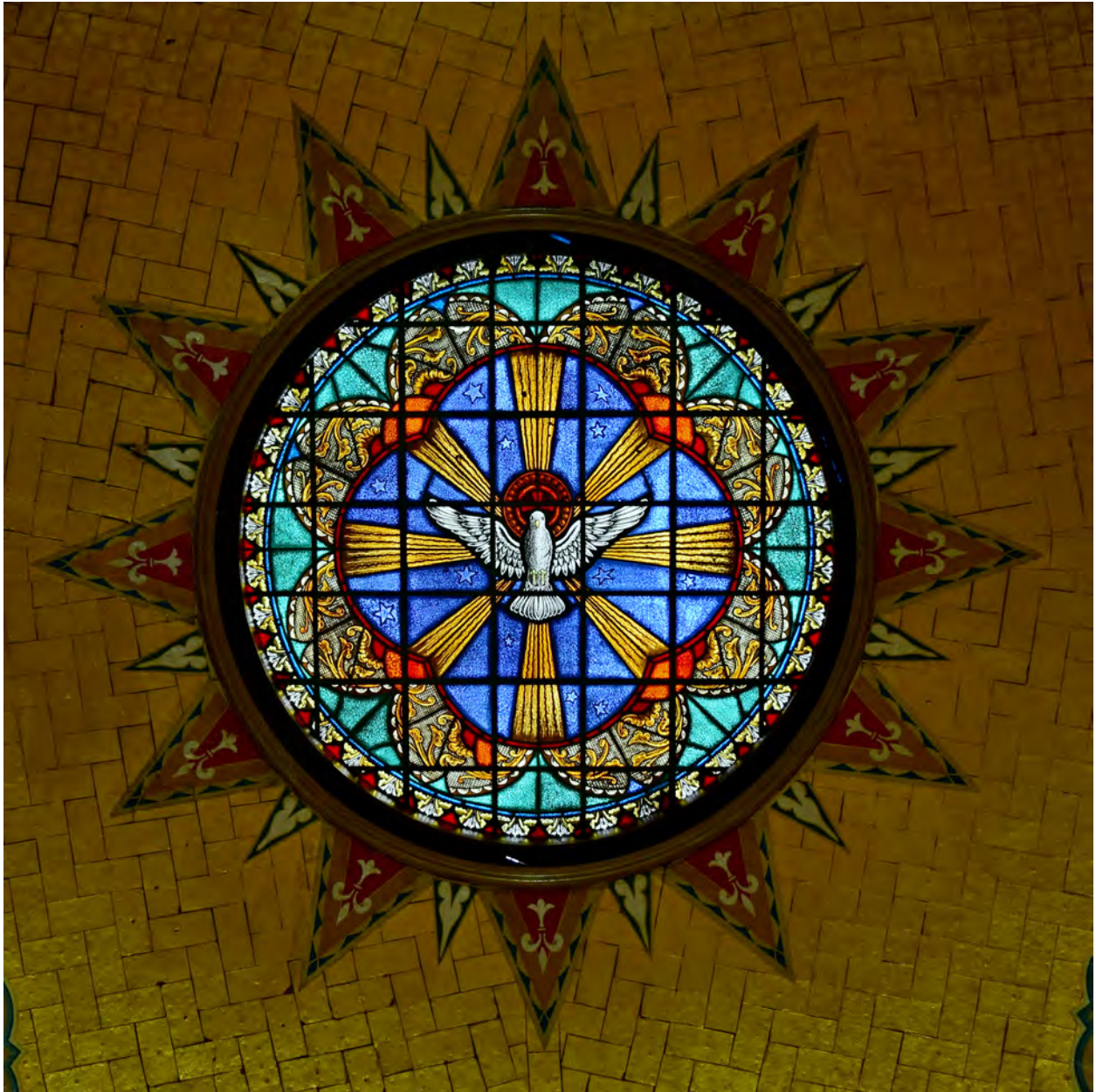
In this JMR issue, we also spotlight the artist James Dwight Davis, featuring photographs from his exhibit “Visions of Faith: Catholic and Jewish Art in South Florida,” demonstrating how Jewish and Catholic congregations build beauty into their faith and worship.

In our “Student Corner,” we feature a timely student article from St. Thomas University analyzing “woke” marketing and an article from Neuman University that investigates determinants of middle school math student motivation and success. In addition, we review the books *The ageing of Aquarius: The hippies of the 60s in their 60s and beyond* by Nimrod, and *Walking a tightrope: The story of a brave mother* by Timor.

As President Ronald Reagan once said, “As long as books are kept open, then minds can never be closed.”

Always forward,

Hagai Gringarten, Ph.D.
Publisher & Editor-in-Chief



“Chancellery”
Gesu Catholic Church, Miami, Florida
2024

Photography by James Dwight Davis.

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Contracts Are “Good,” Aren’t They? Law as Philosophy and the Adequacy of Consideration

Jeffrey Kleeger
Florida Gulf Coast University

Abstract

Achieving equity in litigation is “good.” It is about ensuring consideration is adequate. Achieving finality in cases is better, although there is a cost to pay for peace of mind. Disposing of cases at minimal cost with “equity” is best. This article is about defining the meaning of doing “good,” aspiring for “better,” and achieving “best” under the circumstances at issue in a matter. This article defines “goodness” as “civic virtue,” as “equity,” and as “law,” with the philosophy of law as enforcer of private, moral rights. Put another way, liberty or personal autonomy is the essence of private law transactions with all participants seeking predominance, but how can everyone win? The legal sub-system of society structures litigation to seek prompt closure of cases encouraging equitably assigning rights and duties to promote certainty and stability in social relations. Law functions effectively when government intervenes minimally and allows individuals to exercise freedom. Windfall profits and corresponding losses will occur, but justice demands the rule of law is consistent. Aristotle instructed we should accept law as a “valid and binding” device helping us achieve the “good life,” which is a life “worth living” as it promotes meaningful fulfillment and denies blind pursuit of self-interest. For Aristotle, these lofty ends result from harmoniously balancing competing rights and duties, imposing exceptions where legal rules fail, and seeking to secure the “expectation of expectations,” instead of defeating the “other,” and in this way, law upholds its binding effect (von Leyden, 1967, pp. 2-3). Relying on Aristotle’s insight, this article explores fundamental questions including whether “an agreement” is “fair,” “lawful,” and “good?” This article considers how courts view legal matters to “work out” the validity and “goodness” of promises.

Keywords

making happiness, exacting the expectation of expectations, contract enforcement, philosophy of law, harmony, mediating equity, Aristotle as guide

Introduction—Mediating Equity and Defining Goodness

This article explores the philosophy of law in the context of contracts, considers the meaning of terms such as “civic friendship,” “virtue,” “equity,” “goodness,” and influences on the legal sub-system of society by the sub-systems of economics, politics, and society. The article works out how contracts are not inherently “good” but are a device lawyers use to facilitate “claiming,” “maintaining,” and “creating value” in dispute handling. Owner-rights alter perceptions on the meaning of acts and words. Parties negotiate and create vested interests, a framework for “good” relations, navigate games and rent-seeking behavior, and describe interest-based struggles along a range of socially acceptable behavior. The law requires due process and equal treatment in applications of law to facts, but when disputants engage in private wrangling, there is a risk inequity will predominate, crush consensus, and unwind or dissolve agreements. If that happens then parties may “dispute the existence” of a contract, question its validity and legality, and raise doubts about the ethics of its enforceability (Deason, 2001). The philosophical and psychological thesis suggesting “contracts are good” presents interesting questions, requires listening to the Public Choice theorist debate, channels Aristotelian Logic to ponder imponderables, and helps define what makes the “good life” “good,” explains why “rationality” and “morality” canalize its pursuit, and reveals how the durational value of “antiquity” concepts (old law) remains relevant for contemporary dispute resolution efforts (von Leyden, 1967).

Drawing on Aristotle, this article explores the philosophy of law. It examines a law and ordinance insurance contract to center thinking, question and reflect upon thinking, and establish appropriate legal handling of windfall profits arising out of unintended consequences bargained or not, in a contract. In insurance claims handling, gains align with losses, but not necessarily in equipoise. This means someone “wins” while someone “loses” in a conflict, unless mutually exclusive opposing claims reconcile, and they do not usually do so without some “coaxing.” Law and Ordinance principles mandate “upgrades to code” as necessary to secure public health, safety, welfare, and morals where “goodness” resides, and contracting private parties expect the benefit of their bargain. The binding, reciprocal nature of contracting concerns exchanging inputs for outputs. Mirror image correspondence reflects ups and downs, breakdowns, buildups, stoppage and (re)starts in human interactions. In this regard, negotiators dialogue, create a shared history, rely on custom, habit, motive, objectives, practice, and tradition to shape promises to produce a “meeting of the minds” representing what each believes is a “fair,” “good,” “just,” and adequate result in “the expectation of expectations” (Luhmann, 2004).

In addressing the definition of “goodness,” which is necessary for understanding human social relations, it is helpful to accept “the will of the parties” is an essential element in the framework of legal interactions, perspectives on “doing good” guide those relations and permit exercise of self-determination expressing private autonomy. Here, “rent seeking” behavior is the very definition of and opposite to mediating “equity,” depending on the definition of that term. Profiteering deviates from “goodness” when self-interest is the focus. This is “the snapshot moment” when self-interest grasps control, dominating a negotiation, and Public Choice theorists conclude from this the typical analysis “miscalculates” allocative efficiency where tariffs and monopolies inappropriately burden individuals to alleviate a generalized “underestimation of the welfare costs” of state action, and efforts to correct these “miscalculations” are artificial interventions on the “invisible hand” that inevitably fail as government interference “causes further harm” (Fuller, 1941, p. 807; Tullock, 1967, p. 224). This “misplaced construction” of “goodness” begins by accessing data on asset valuation, comparing it to costs, and as set forth in this article,

there are “better” ways to correct this error. Aristotle wrestled with the “problem” of creating “good,” and found “an unwritten natural law” exists in the balancing of social elements where “general” means “applicable to all,” “eternally true,” “universal,” and “absolute” signals “justifiable remediation” or “excuse” allowing “filling in the gaps” of deficient outlines to better approximate equity and expectations (von Leyden, 1967, pp. 3–4).

This exercise in judicial “completion” is paternalistic oversight that law condones, despite any inconsistency it entails with discouraging autonomy and self-determination in favor of promoting “the security of transactions” that “have a law-making and right-altering function” and require the legal sub-system to make adjustment at the boundary to “fit aberrations into conventionally acceptable forms” (Fuller, 1941, p. 808). This “principle” of private autonomy establishes state action as “ordered liberty” merging reproductive social systems into a single form where law mediates equity by creating conditions for its replication. In this way, law regulates private activity, denoting contract as “a kind of private legislation [where bargaining allows] individuals to set their own legal relations” that law upholds (Fuller, 1941, p. 809). In this process, private autonomy is socially canalized within boundaries opposing self-interested “rent-seeking,” with attention less on “extrinsic” objectives and more on “intrinsic” ideals to promote collaborative solutions, encourage “civic friendship,” and turn damaging “rent-seeking” (manipulation of distributions to promote self-interest) into creative “profit seeking” forms that confer and maintain value while achieving benefits shifting focus from “rent,” or that part of a payment that exceeds “normal” valuations beyond opportunity costs, to rely instead on freely bargained for exchanges subject to traditional economic models of social interaction. It is conventionally accepted that individuals prefer more to less and gravitate to rent seeking behaviors where a “commons” is tragically consumed, unless the reward of self-discipline and conservation is apparent and clearly maximizes present values of expected income streams by focusing on giving instead of taking, building productive relations, instead of displacement or dispossession, and promotes “desired social results,” instead of expropriation (Buchanan, 1980, p. 3).

Economists admit litigation and regulation arise out of the mix between economics, politics, and society with law and economics as tools for determining how rules of engagement evolve in response to economic drivers and individual needs that require social intervention. Economic theory helps explain how laws affect the public, but the social welfare obligation norm is largely ignored in the law and economics concept where market efficiency is all-important. Theorists in that tradition rely on economic motivations to resolve legal problems believing “profit-” and “rent-” are not equivalents as the “-seeking” is about different motivations and priorities including whether to subsume “goodness” within self-interest. Philosophers, such as Aristotle, claim human nature gravitates toward harmonious balance and “profit” is “good,” while “rent” is “self-interest,” more akin to “bad,” as profit expands social wealth while rent expands personal gain, extracting value without providing reciprocal contribution. Certainly, there are questions of morality when a bargain does not appear equitable such as with windfall gains. The “invisible hand” driven by self-interest interferes with the social welfare obligation and law mitigates by assigning rights and duties to regulate associations using state intervention to enforce expectations and deprioritize whatever functions counterproductively. Aristotle taught “rightness” is “good” and leads to “a common interest or the legitimacy of certain claims” when general rules dictate the “pre-requisite of obligation,” and individuals comply with mandates (von Leyden, 1967, pp. 5–6). For Aristotle, correcting “the generality of legal formulae and their disregard for the individual case or possible exception” is necessary to move beyond prior specificity where the nature of law is “generality” and it responds to “unforeseen circumstances” by requiring a “fair”

determination when law is “an exception to a rule [that] proves the rule,” and so it is fair to say, clearly reading “phenotype expressions” allows for identifying exceptional cases that demand qualification so jurists can carve out “workable rules” to accommodate social necessity and avoid “the exception swallow[ing] the rule whole” (von Leyden, 1967, pp. 6–7; Finkelstein, 2000).

Mediating Equity to Achieve “Goodness”—Law and Ordinance Analysis

The law and ordinance example of insurance coverage claims handling offers a practical model for equity in motion demonstrating contracts are not inherently “good,” confirming actors use law to further private objectives and support claiming a “condition that renders the general rule [] without qualification inapplicable in certain exceptional cases” shows exceptions mean there is “an implicitly understood limitation upon the applicability of an otherwise general rule,” thus “an exception to a rule is [not] to change the rule” but is to pause it temporarily for “good” cause (von Leyden, 1967, p. 7; Finkelstein, 2000, p. 516). In this reading, exceptions are limited suspensions borne of necessity, and as such, rules remain valid most of the time, and exceptions will not “swallow them whole.” Equity usually ensures compliance with rules imposing exceptions as needed to adjust applications while the “jurisprudential puzzle of what we might call the logic of exceptions [mediates] the relation between rules of prohibition and the exceptions that qualify them” (Finkelstein, 2000, p. 505). The philosophy of law consistently holds conflicting rights create tensions and the underlying intent is to correct unfairness if “law errs because of its generality” (von Leyden, 1967, p. 8). If a “conflict of rights” exists, one may ask how best to eliminate the tension between them and restore balance in ways better than the “model for conflicting liberties [in] the case of economic competitors struggling over market share” that requires redistributing prioritization using the force of state action (Finkelstein, 2001, p. 283). While legal process is imperfectly equitable, consistency in applications is essential.

Public Choice theorists claim ignoring costs paints an inaccurate picture of a transaction if certain expenditures require increasing social burdens without corresponding gains making the economy poorer “by the whole amount of wasted resources,” and lament the absence of justification for such “loss” (Tullock, 1967, p. 225). In contests, parties satisfy formalities serving “cautionary,” “channeling,” or “evidentiary” functions, using “defined, sharp cuts,” to guide their behavior, while Parol Evidence and Statute of Frauds precepts counter formality restricting availability of information to discourage amoral conduct such as “rent-seeking” (Fuller, 1941, pp. 800–802). This “good” is significant as it refers to the difference between the productive utility of “profit-seeking” and lack of same in “rent-seeking” that imposes costs without corresponding social gain. For example, a state requirement promoting goods being “obtained in an inefficient manner [is] rent-seeking,” while “profit-seeking” is action to create wealth for net positive social gain (Krueger, 1974, p. 295; Tullock, 1967, p. 226).

To further illustrate this distinction in form, consider the necessity of restoring a fire-destroyed educational facility with insurance proceeds. The prevailing law and ordinance provision addressing claims handling where insureds must rebuild at greater-than-anticipated expense to bring conditions “up to code” involves state imposition of a new burden justified for promoting a public “good.” In this way, coverage for the claim hedges risk, but it concerns a risk of loss that was not necessarily considered in contract negotiations. The allocation of risk concerning obligation for the additional expense to satisfy legal mandates is at issue. When identifying the “expectation of expectations,” the bargained-for benefit of “full restoration” is now more expensive than previously supposed. Law and ordinance language is a category of

unplanned-for, necessary expenses and as one might expect, a carrier will seek to exclude them from coverage arguing they exceed the scope of what is necessary to restore damaged property to its “pre-loss condition,” although each party will assert equity favors its claim and law and ordinance adds protection against risk of loss (Johnson, 2009, pp. 1032, 1046, 1066). For example, insurer drafts policy language, includes an option to purchase “supplemental coverage,” and when same is declined, risk of loss shifts as consequence of the declination. Still, insureds will attempt to recoup risk distribution by asserting matching requisites accrue to transfer the obligation back to insurer. When a party is bound to a condition, compliance with terms is necessary, and if compliance is lacking, a defense arises, even in the light of an “efficient breach.” The law of contract encourages economically attractive alternatives seeking to reallocate rights and duties both equitably and productively. The fact is, “we have no reason to favor one person’s right over [another when] there are equal and conflicting rights” at issue (Finkelstein, 2001, p. 286).

When conflicting interests need resolution, courts impose a “disinterested third party, fair” determination to bring the matter in dispute to finality. Typically, the result is “win-lose.” In a law and ordinance controversy, coverage is proper, unless policy language “clearly and unambiguously” excludes it. Thus, claim will be favorably adjusted, although sometimes general applications are “defective,” or a party requires application of an exception to achieve a “better sort of justice,” but overall, law is “unaffected by the passions and personal animosities[,] which sway people’s minds,” it encourages binding solutions that are “impersonal,” “rational,” “objective,” “incorruptible,” and “blind” (von Leyden, 1967, pp. 8–9). Carl Schmitt’s “state of exception” thesis is relevant where law enforcement is state action, emergencies arise, and rule-bending is excusable for “necessary” results. Law provides certainty and stability with flexibility. Aristotle taught that law is rational, impersonal, logical, reasonable, “unaffected by desire,” and seeks purposeful order in its “functional rationality” mediating in a “free” market that serves social “good,” promotes balance in allocation and distribution of burden- and benefit-sharing, and encourages productivity, stability, and harmonious ends, while energizing profit-seeking by effectuating “good” in the public interest. Free markets allocate resources in organized fashion, structure uses efficiently, produce and distribute effectively, and by establishing prices as standards of comparative value, generate consequences neither predicted nor understood by any single participant, but that are “good” when their definition and evaluation comply with social expectations demonstrating law and economics function collaboratively (von Leyden, 1967, pp. 9–10; Buchanan, 1980, p. 4).

Equity is the end-product of balancing rigid rules with flexibility, is reducible to the “friend and foe” distinction between beliefs and values, and bends rigid rules situationally, tolerating a form of acceptable, “situational adaptation” (Deason, 2001, p. 102). The question of legitimacy admits of implicit unfairness existing in a “liberal perspective on [] reciprocity,” where one must delicately allocate burdens and benefits (Van Domselaar, 2013, p. 223). Defining “goodness” as “equivalent” to “fairness,” means “law” demands reasonable justification for establishing certain acts as “morally good,” “beneficial,” or “useful,” and renders subjective valuation to the character of a particular subject. For example, law is “good” when society derives value, but law is “bad” when it appears to regulate human social conduct in ways that many “disapprove” of and that disapproval leads to questioning whether the law is “fair,” expectations are “reasonable,” and the dispute resolution identified will bring about change for the better. Aristotle anticipated the paradox of law being “right” without being “fair” and questioned prevailing notions of “goodness,” “rightness,” and “fairness” concluding opinions may vary among individuals, but “living the good life,” means embracing “liberal reciprocity for equitable decision-making” is voluntarily entering

mutually advantageous, reciprocal exchanges not for self-interest but to promote “civic friendship,” social purpose, and “doing good” not only to achieve “good” but also to “be good.”

Civic Friendship Social Purpose—“Being” & “Doing” “Good”

Aristotle’s concept of “Civic Friendship” defines “goodness” as transcending self-interest, as building trust, ensuring certainty and stability, and as mediating diverse interpretations to safeguard against suffering by the unwary at the hand of exploiters who “take what they want when they want” it with impunity (Tullock, 1967). Aspiring to create “civic friendship” is a form of “living the good life,” denies “rent-seeking,” favors “self-lessness,” leads “the willing” to preserve relations, and avoid extracting advantage from the less fortunate and embraces a constructive outlook discouraging wastefulness “from the standpoint of society” (Tullock, 1967, p. 228). Self-interest serves the public “good”; however, as the “invisible hand” leads actors to efficient results, and law supports this philosophy having courts avoid intervening in personal affairs admitting they are not equipped to fully understand such matters and, so, accept subjective perceptions are ultra vires, objective perceptions are more accurate overall, and so, courts will not “inquire into the adequacy of consideration,” and instead rely on approximating equity by alchemizing what is arguably “bad” into evident “good” (von Leyden, 1967, p. 10). This paternalistic state action is “nurturing,” but the temporary nature of turning “bad” to “good” cannot be maintained over the long-run as it only artificially promotes competition, and unintended social welfare impacts are unavoidable and follow from the “failed efficiency” of rent-seeking (Tullock, 2003, pp. 3–4).

Public Choice theorists explain how capture of the system by moneyed interests causes more harm than good, blocks competition, and promotes “wasteful investment of resources to monopoly privilege-seeking” (Tullock, 2003, pp. 4–5). This result is precisely why the social system finds it is necessary “to concede [] some kind of regulation of men’s relations among themselves is necessary” to avoid “badness” such as reallocation of resources by wasteful lobbying and other dysfunctional activities that promote one “to dispossess the other to obtain exclusive control” of resources (Fuller, 1941, p. 810; Finkelstein, 2001, p. 289). A better approach to create value is minimizing the objective of seeking advantage by claiming and maintaining value, and instead of relying solely on positions, identifying interests; looking at custom, practice, and tradition; and encouraging flexibility to achieve Aristotelian harmony. Creating social value is possible when individuals engage in fruitful, cooperative collaborations that begin and end with identifying mutually acceptable terms advancing efficiency and utility without imposition. In this sphere, mutually beneficial ends create “win-win” iterations. Contracts describe social and individual “good purpose,” conclude with reciprocal and mutually advantageous gains, and treat all participants “equitably” and “fairly,” meaning without “bias.” Law rejects “bad” rules that fail to further any useful purpose or create results “so preposterous [as] analogous to an abuse of discretion” (Finkelstein, 2000, pp. 510–511, referencing Schauer, 1988, p. 547).

Law is fluid and always in motion, is constantly evolving and reforming to improve the commonwealth, while Aristotle’s concept of “civic friendship” works alongside law, is the equivalent of “good” moral purpose, promoted public “good,” makes humans “righteous,” serves “the common interest,” avoids “rational self-interest” that is “normal and expected,” and is consistent with a legal framework that encourages compliance with social rules favoring the public interest where rights conflict and morality assigns “elementary truths and [] basic rules of obligation” to guide determinations (von Leyden, 1967, pp. 12–14). Law is typically consistent, but “inconsistency may arise and is a product of three assumptions that rights (1) “can conflict,”

(2) “are correlated with duties,” and (3) entail “an absence of a duty not to act as the right allows” – meaning inconsistency is a “problem” (Finkelstein, 2001, p. 292). But all is not lost as morality is consistent, law defaults to the conclusion “people ought in general to honor their obligations,” and thus, all but “unconscionable” or unlawful contracts are enforceable under law (Finkelstein, 2001, p. 296). Negotiating parties may disagree on elements of what each is entitled to take or must give according to an agreement, but if disagreement arises, then law enables disputants to find a means to reach effective solutions, change a position, make remedy, or otherwise stretch the limits of imaginative reinterpretation to find a means to honor obligations and maintain or create value. Where objective definitions and subjective circumstances mix, bright-line rules adjust, exceptions apply, laws change, and accommodations effectuate. “Civic friendship” as Aristotelian concept promotes organizing goods and services into mutually acceptable “win-win” forms, encourages optimal solutions to enhance productivity, advances beneficial exchanges, generates capacity, promotes accretion, and is a synergistic “good” form for expanding wealth and resisting mere claims or transfers creating a zero sum so that what is “good” replaces what was “bad,” and this follows not because individuals are “different moral beings” who “modify their actions,” but results from evolution of institutional structures and their regulatory environment that influence and transform individual choices (Tullock, 1967, p. 228; Buchanan, 1980, p. 4).

Civic friendship “good” is borne of consensual agreements, frees autonomy and encourages relations to flourish where participants self-correct deficiencies without need for government intervention and where privileged confidences “collide with law” when law requires disclosure. In such instances, confidentiality yields for just cause in judicial discretion as “progress and changes in the law” are sometimes necessary to modify “tradition and customary rules” (Deason, 2001, p. 63; von Leyden, 1967, p. 15). Aristotle instructed justice demands upholding practices useful to “enable men to become virtuous [and] derive their power to command obedience,” accepting that exceptions are excusable if qualifications dictate their necessity; for example, a “bad faith” allegation will require a respondent to establish “a claim [or] defense to avoid liability,” and so, courts may decide to break confidentiality to safeguard equity “not otherwise available” (Deason, 2001, pp. 63–64; von Leyden, 1967, p. 15). This sacrifice of privilege for knowledge, freedom for safety, and information for equity is not a decision made lightly. The objective of resolving conflict to avoid protracted contests is about sacrificing to empower, is about reconfiguring relations to better suit participant needs. The opposite reaction of reticence in the face of necessity is condonation of theft or a “pure transfer, [a taking] assumed to have no welfare effects [but which creates] very substantial welfare costs” (Tullock, 1967, p. 228).

Emotions, Advantage-Seeking, and Character-Building Exceptions

Conflict is blinding when emotions rage. Establishing a “civic friendship culture of unity” eases tension, is a “good” antidote to “fix” misunderstandings, eliminates dissension, and summons peace. The law and ordinance insurance claims handling example of allocating the cost of compliance to negotiated terms and conditions shows how disappointing language drafting can be when possibilities are not anticipated and otherwise “clear language” fails to capture intent (Johnson, 2009, p. 1032). Rent-seeking interferes with “civic friendship.” If the cost to society of transferring resources drains excessively, there is negative impact and loss. Aristotle found changing law to remove obstacles is sometimes necessary, possibly useful, and while he viewed law as complex, “natural and binding just as successive stages of development in any organism [are] natural and [] normative,” he concluded law evolves naturally, but artificial interventions are

sometimes necessary to reverse unintended consequences that result when law fails to effectively anticipate all possible applications, which is to say exceptions are appropriate when “laws [are] not [] sufficiently determinate,” thus, to promote equity and ensure rules properly “express their purpose,” modifications are sometimes useful “to adjust for particulars” (von Leyden, 1967, p. 15). The general rule is an “exception” is appropriate when an application cannot dispose of a case effectively perhaps where an outcome must be determined in accordance with some other rule or principle. In such cases, an exception “merely states the limits [,] is generally understood as a negative offense element [,] negatives the mental element [making it is proper to insert it as] rights are not composite; they arise independently [, and] there is no guarantee they will not conflict (Finkelstein, 2000, pp. 514, 518, n. 36; 2001, p. 298).

It is interesting that law sets rules to mediate conflict, and when such rules fail, law does not shrug but instead seeks the originally desired purpose by other means. So it is, cases with similar facts resolve differently in different courtrooms, some plaintiffs and some defendants win in similar cases, and there is no predicting of results. Circumstances demand “picking and choosing” among potential, mutually exclusive alternatives without guarantee the selected choice is the best resolution. Resource reallocation may encourage “good” use of resources to “better” applications to increase net social value, but equity lines blur, even if “justice under law is blind” and requires advantage-seeking arrangements be “consistent with traditional contract law” principles that encourage compliance with the expectation of expectations (Buchanan, 1980; Deason, 2001, pp. 55–57, n. 74; Luhmann, 2004). If parties engage in open, honest conversations, they will more likely share information transparently, avoid misrepresentation and encourage self-determination avoiding unnecessary squandering of resources or restricting of “evidence otherwise discoverable” (Deason, 2001, p. 57, nn. 72, 74). After all, decisions are only as effective as available information allows, and courts permit use of confidential information as “sword” and disallows such use as “shield” protecting privilege situationally (Deason, 2001, pp. 58–60).

In *Bering Strait* (1994), the court agreed coverage on claim is equitable as reciprocal acts of socially beneficial exchange confirm each party negotiated fairly, and although neither fully contemplated the extent of what followed, granting coverage was proper. Contracts offer a blueprint for efficient resolutions to avoid inordinate burdens and windfall gains. A range of acceptable conduct exists beyond extremes. What is “unconscionable” in a particular space is acceptable in another, and so courts will not “fix” relatively “bad” arrangements, set specific prices or dates or other terms, unless the same is clearly discernable from course of conduct or manner of practice between parties, and courts prefer deference to a “civic friendship” model to eliminate inconsistency (Johnson, 2009, p. 1032). When parties act without bias, rethink actuality, and comply with the precept of “doing no harm,” they excise emotion, fall upon on logic, and experience what is “good” to identify what is “right.” When “life has already organized itself effectively, there is no need for the law to intervene,” but seldom does that happen, and if ambiguity exists and the “object is to avoid giving sanction to inconsiderate engagements,” law must intervene to “right” a “wrong” or correct an injustice (Fuller, 1941, p. 806).

Self-help is effective in cases of “unjust enrichment,” but the legal sub-system does not typically condone the remedy. Detrimental reliance causes harm and produces justification for intervention, and individuals may effectuate a “fix,” imposing force or “civic friendship” cooperation to accrete, rather than divert or extract resources (Buchanan, 1980). While there is no guarantee of “fair” results, of “good” players, or that law adequately corrects “errant reciprocity,” when equity is at risk, courts intervene to attempt equitable re-equivalence, adjusting perceptions in valuation that interfere with value creation disproportionately (Golecki, 2013). Ironically,

reciprocity calibrates systems offering “invisible hand” impetus to drive equitable equivalence, is a foundation for validating bargains, corrects for subjective misinterpretations, and offers accuracy in approximating equivalence, despite any arbitrariness resulting from utilitarian allocations that courts cannot improve upon by interfering or substituting their judgment for that of the disputants in their exercise of personal autonomy (Golecki, 2013, p. 249; Kovach & Love, 1996, p. 31). Fuller (1941) presciently notes in discussing contract law that *quantum meruit* resulting from an efficient breach presents a more urgent case for judicial intervention than “loss through reliance not resulting in unjust enrichment,” and so, following Aristotle, we can conceive of justice as focusing on “maintaining a proper proportion of goods among members of society,” and unjust enrichment as simply an “aggravated case of loss through reliance” marked by acts where “a defendant would be enriched through the breach of his promise,” but to reallocate value from this enrichment, there must have been “reliance on the promise by the party impoverished” (p. 812, n. 21).

This is an important distinction. Recovery under contract is recovery under law, and it requires establishing not only “the value of what the promisor received” but also “the value of the promised equivalent,” the value of damages not in equity but under law, the value of consideration, whether enforcing certain promises leads to imposition of certain costs or not, and ultimately concluding the “social effort expended in the legal procedure necessary to enforcement” is justifiable to correct the “bad” that follows when in the “field of human intercourse [a] man may without liability withdraw assurances [he has] once given,” which is to say to breach a contract with impunity (Fuller, 1941, p. 813). Most jurists would find such breach inequitable, but contract remedies do not normally contemplate punitive damages in nature or qualification.

Bargaining parties engage in negotiations with transparency, or not, but to the degree “contract principles embody society’s view of what is appropriate [] to avoid unjust enforcement,” parties need freedom to agree (or not) about what it was they presumably “agreed to” (Deason, 2001, pp. 38, 41). This issue creates a range of possibilities about equating “goodness” to “justice,” whether “reciprocity” is “equivalence,” and whether a party possessing an advantageous position through rent-seeking (investing without creating value or “taking and not giving”) deserves a fair measure of recompense forcing a reallocation of benefits and burdens. Certainly, “liberty” is autonomy, freedom from inordinate burden is access to allocations, and perhaps, government interference through regulation to curtail private “goods” from operating as public “bads” expands rather than restricts liberty (Buchanan, 1980). Exchange transactions are complex. A situation in which the interests of transacting parties are opposed guarantees “the social utility of the contract [] by the fact that it emerges as a compromise of those conflicting interests,” which is the “invisible hand” at work (Fuller, 1941, p. 817). What this means is the phenotype of “trade of economic values” depends on the excitement created by promises that anticipate satisfying the expectation of expectations, and as such, those promises are binding “on account of the expectation excited in the promisee,” which is the essence of reliance and so, conceding breach is paradoxical, represents a “break in morality” law condones, and introduces contradiction (Fuller, 1941, p. 820, n. 31).

This point addresses the core of the “goodness” of contracts principle. The law and ordinance example of confirming coverage is relevant to the analysis in terms of how “upgrades” refer to legal requirements to protect health, safety, welfare, and morality, and mandating compliance is arguably “good,” yet this imposition creates an unexpected, inconsiderate, additional burden on a private individual, which by any measure of intervention limits freedom unacceptably and, thus, is “bad,” although if society accrues benefit then perhaps there is some “good” in it. The question of where “equity” lies is tortured in this example as law clearly holds imposing inordinate burden on private rights to benefit public “good” is “bad,” yet benefiting the

public is “good,” and so acceptable, when the act is lawful and a reallocation is accomplished to comply with “mandatory guidelines promulgated by advisory bodies” governing a lawful subject for contracting (Johnson, 2009, pp. 1034–1036). Typically, insurance provisions such as law and ordinance exclude coverage for code upgrades and cover only costs to repair “like-kind and quality” material (Johnson, 2009, pp. 1039, 1046, n. 98 citing to Bering Strait, pp. 1293–1294). Courts will not interpret this language strictly, though some hold “exclusions clearly and unambiguously preclude coverage,” while others are not so sure or do not apply the law in ways as punitive or forgiving (Johnson, 2009, p. 1041). It is fair to say there is a mix of results in these cases, and it is not so clearly “good” or “bad” when a party benefits at the expense of another, but understandably, the essence of a contract is effectuating mutually beneficial exchanges and so, as legal decisions require interpreting words at their “plain and natural” meaning, enforce exclusions and reject claims according to terms as understood by the reader courts may uphold “code upgrade exclusions” that result in a bar to relief, even if reaching the opposite result seems “equally” justifiable on the basis of “reasonable expectations doctrine” to declare coverage where provisions deny a claim by reading language as consistent with “objectively reasonable expectations” (Johnson, 2009, pp. 1044–1046, n. 100, referencing Bering Strait, 1994, p. 1295).

Evidently, it is difficult to predict how a court will rule on complex litigation. For example, one court found coverage relying “on an implied promise to replace the functional use of the insured property” (Johnson, 2009, p. 1047, referencing Unified School District no. 285, 1981, p. 1149). Other cases reject such interpretations and review of them shows there is no uniform construction, and courts addressing “essentially identical policy language” reach different results depending on their angle of “results-oriented” perspectives. While we know courts simply are not results-oriented (justice “is blind”), courts will not ignore “the intent of the parties [] expressed by the policy language [or] the fact [] insurers offer specific code upgrade coverage,” which is optional and works against claimants where there is arguable waiver, as waiver signifies a party “could not reasonably expect coverage” (Johnson, 2009, p. 1048). Some courts rule against insureds on “like-kind and quality” limits, or deny recovery reasoning “a structurally more valuable building” is not equivalent, and obtaining the same creates an inequitable windfall or burden as the cost of new materials is all that is required in “equivalent construction”; therefore, to demand more is unconscionable compensation, loss must be direct, and “actual, physical,” policy need not “place the insured in a better position than he or she was before” the loss (Johnson, 2009, pp. 1049–1051, referencing Breshears, 1967, p. 883 and McCorkle, 1990, pp. 494–495). The “proper” conclusion is opaque as results depend on perceptions, “the equivalent construction [] could reasonably be interpreted [another way and] include the cost of returning the insured property to its equivalent or similar use,” or to only restore “pre-loss condition,” not pre-loss functionality to enable insureds’ to reduce exposure to risk of loss, but not allow windfall gains (Johnson, 2009, pp. 1051–1052).

Law is Complex

Consistent with court reliance on the “plain meaning” of language, law is complex. If an insurer “did not want to provide coverage [, they] could have used different [exclusionary] language” as they typically control drafting, write coverage, craft language to avoid liability; by that token, if coverage is clear and read consistent with a grant, coverage ought to be afforded. Insurers behave “ethically” when they adhere to good corporate social governance, but they may be hard-pressed to claim disadvantage when pertinent language is of their own making. As such, insurers limit liability “to only those cases where [] loss or damage results from the peril,” is a “direct physical loss,” and coverage is found by a covered “peril insured against.” In such cases, a claim for additional costs relating to undamaged portions is error as it exceeds the scope of coverage, and policy was not intended to reward noncompliance; therefore, if “loss was simply the occasion for the discovery of [] preexisting code violations,” insureds cannot claim coverage merely because a loss occurred (Johnson, 2009, pp. 1061–1062, 1065–1066; Chattanooga Bank Associates, 2004, pp. 780–781). Theorists assert an exception exists when an applicable rule of prohibition “fails to dispose of a case because another rule or principle,” perhaps of justification, conflicts with it. What this means is that there is inconsistency in the law, and so, this type of conflict is a conflict of principles where rules conflict and in so doing “reflect different background principles” with the result being when “a rule comes into conflict with a principle,” the source of conflict is the “principle that supports the rule clashes directly with another principle” requiring a jurist to decide which of the available alternative applications “best fits” as principles do not “have dispositive application to any case” and “there is no such thing as an exception to a rule, where an exception qualifies the rule from outside it without compromising the rule’s validity” (Finkelstein, 2000, pp. 530, 537). Thus, the final decision rests with court discretion.

This philosophical “confusion” establishes the incontrovertible truth of the complexity of law and confirms its utility in effecting reciprocal equivalence (Van Domselaar, 2013, pp. 223–224). To clarify—exceptions or suspensions of rules do not abolish rules, they simply pause their application or suspend their use for a time. Meanwhile, the notion of “equivalence” is highly subjective and only imperfectly reciprocal. This signifies equivalence serves as a benchmark to encourage the “meeting of the minds” but will not govern all possible liability, thus equivalence merely assists in evaluating the measure of possible relief following breach where parties disagree on how best to proceed. Each party will thereupon present evidence for the record and support their position, and this begs the question of how to solve the riddle of the “problem” by framing arguments to establish an acceptable measure of relief when breach is “neutral” and driven by efficiency and utility, not morality. The notion of “reciprocity as idea” is “dead” was somewhat messy, is of limited intelligibility and value as it requires transparency to guide determinations and counsel, and counsels against transparency for its capacity to waive competitive advantage. The conventional wisdom holds — “conflicts of rights and moral dilemmas appear to lead to inconsistency,” while rights “can be overridden yet remain in force” (Finkelstein, 2001, pp. 298, 304). Put another way, “a person who faces a choice between comparable alternatives, where all the relevant principles are in equipoise, is arguably in the same position as the person who faces a choice of incommensurable goods, where the relevant principles cannot get a grip at all,” meaning variables continually change, one “cannot choose among them according to principles of rationality,” predictability is limited, and “there is no superior outcome, there is no superior method for selecting one option over the other,” so individuals “must simply ‘pick’ rather than ‘choose’” one option over another, fall upon contingency and “hope for the best” selecting the most

“contingent-laden description possible” (Finkelstein, 2001, p. 306). Where choice is largely indeterminate, one cannot measure the “goodness” of a choice. As Buchanan (1980) explains it, public “choice” analysis must focus on facility as acceptable measure of “goodness” the way state assistance aids new entrants gain market share in a competitive market (“good”), opposed to “attempts to capture artificially contrived advantageous positions under governmentally enforced monopoly” (“bad”), that leads to “undesirable consequences” (1980, p. 9).

Aristotle assists those seeking to understand the proper use of exceptions to rules by arguing in favor of conventionally accepted “understandings” of what is “good.” Niccolo Machiavelli suggested “the end justifies the means,” meaning that when a goal is “morally good,” most any method of achieving it is “acceptable” in terms of “doing good.” This article seeks to explore the meaning of “goodness” using a structured framework for decision making that builds on Aristotelian references that certain elements of “goodness,” including that ethics is “duty-based love,” reciprocity is “utilitarian advantage-seeking,” and “virtue-driven” is “character-building,” mean and explain that utility serves objective and subjective ends, dependent on the perspective and preference one brings to the bargaining table. As state action derives from constitutional power sources, restricting state interference with private rights or autonomy advances “goodness,” associating self-determination with liberty, furthering “the dynamic process of development, growth, and orderly change” to enhance what is “good” (Buchanan, 1980, p. 10). One might conclude Aristotle struggled with finding answers to “frustrating” questions but enjoyed the process of finding answers to such important questions. Aristotle defined “goodness” by comparing and contrasting, explored what makes for “applied moral authority” by evaluating equivalence and reciprocity that temper its use (Van Domselaar, 2013, p. 224). Without doubt, law and morality are dissonant, yet integrally interconnected. A “pragmatic approach” to reconcile distinctions requires balancing interests, searching for harmony when contract enforcement collides with confidentiality, and accepting tension is useful, and legal enforceability may require piercing the veil of confidentiality to discern intent although any “across-the-board rule [on] disclosure is inappropriate” (Deason, 2001, p. 73).

Flexibility is effective when bright-line rules fail. Efforts to preserve confidentiality encourage accurate and transparent information-sharing to better inform decisions and transform agreements “into a legally effective form of expression” that leads to long-run gains (Deason, 2001, pp. 74–75, referencing Fuller, 1941, p. 801). Identifying a space where contract enforcement collides with confidentiality helps minimize negative impacts authenticating agreements and creating “a record [of] intention to be bound” useful in efforts to “fill in the gaps,” correct deficiencies, strike inequities, promote efficiency, favor utility, and otherwise uphold expectation of expectations to produce “good,” “better,” and “best” ends understood situationally (Deason, 2001, p. 75). To prevent the pitfall of subjectivity from overwhelming the evaluation process, courts focus on objective measures, depend on admissible, memorialized terms to resolve “key issues [seek evidence] definite enough to be enforced [with] reasonable certainty the essential terms” of promises made are interpreted correctly (Deason, 2001, p. 85). Doctrinal innovation combines flexibility with stability, pragmatism with morality, and allows justice to incorporate logic. While moral premises test what law allows, the important question to ask is whether a particular contract is “objectively just,” not whether one subjectively understands certain terms. If a contract satisfies the premise of zero sum results, it is “essentially equivalent,” “probably just,” and likely “good” (Van Domselaar, 2013, p. 225; Golecki, 2013, p. 250).

The Importance of Being Equivalent in Resolving Human Conflict

Aristotle described harmony as a mathematical relation of commutative justice expressing as $(a+b) = (b+a)$ and suggested a formula of interdependent “equivalence” is integral to balancing variables that infuse corporate social responsibility with morality. In resolving human conflict, it is important to approximate equivalence, to satisfy human “wants.” Contracts are typically devoid of morality, though, and it is efficiency that connects “rightness” with “lawfulness” and “rationality” to define a rule or its exception as “good” while subjective “fairness” is not relevant to the analysis (Whincop, 2000). Judges legitimize what is “fair.” They identify what is “right” and rely on a set of extrinsic standards, conservatively stifling reform, leaving it to legislators to liberally push for different results, or if legislators abdicate their duty, may actively pursue reform (Van Domselaar, 2013, p. 225; Whincop, 2000, p. 112). If a legal order complies with due process then reciprocity exists and courts decide cases without reference to moral authority, instead relying on legal principles, recognizing there is no guarantee of eliminating arbitrariness from decision making as diverse factors interfere with outcomes (Van Domeselaar, 2013, pp. 226, 244). Courts “declare” law; apply exceptions; rely on tenets of custom, practice, and tradition; fall upon deference in private ordering; and adhere to pragmatism, instrumentalism, adjudicatory passivity, minimal interventionism, abdication, or prudentialism, in responding to evolving trends in law (Whincop, 2000, p. 113). This means if a contract “collides with confidentiality,” the only effective mechanism to ensure “a party’s attempt to establish an oral settlement does not swallow [] confidentiality [is preserving] privilege with a limited exception for [] disclosure of [a necessary] writing or modern equivalent” (Deason, 2001, p. 81).

The Statute of Frauds safeguards “intent,” making a contract “good” when it complies with the requisite of a writing, and “bad” when it does not. If the state creates an “artificial scarcity,” that encourages individuals to secure questionably valid benefits or rights, ousts others from privilege, which is inconsistent with maintaining a “civic friendship,” and so, the next inquiry must be to question legal justifiability (Buchanan, 1980). There is no lawful excuse when facts “shock the conscience,” although “equivalence” can produce a condition of equilibrium. Aristotle thought equivalence and equilibrium possibly coexist, and equipoise is the essence of equity and harmony that cancel conflicting tensions ending in the peace of a mutually beneficial, reciprocal advantage where individuals and society, public and private, plaintiffs and defendants equally gain, law is “rightly” decided, and the public “good” prevails (Van Domselaar, 2013, p. 227). This conclusion aligns individual interests with mainstream social utility over time, which for Aristotle is “good” and “correct” law, “rightly decided,” although there is a distinction made between upholding a “correct” determination on the basis of faulty reasoning and requiring sound logic to support decisions where courts will uphold “good” decisions “wrongly decided,” even if the argument for affirming deficiently-reached determinations is absent from the record, but it is clear the “correct” decision, although rendered “badly” is essentially “good” (as long as the decision is supported by already-existing theory), even if it was not originally argued (Applegate, 1979; Robertson, 2002).

Legal conclusions are possibly “more important” than the reasoning underlying them, and “getting the decision right” may supersede “expressing it correctly.” Parties exercising self-determination may allocate “resources among alternative uses [for] tolerably efficient results,” to promote “civic friendship,” and even if a decision is ultimately disappointing, it will remain “just,” “good,” and “lawful” if it avoids the “true harm” of threatening rule of law (Buchanan, 1980, p. 12; Van Domselaar, 2013, p. 227). The definition of “true harm” is the questioning of legal legitimacy. Law bends to social pressures as a tree responds to wind, to avoid breaking. This is the

explanation for exceptions to rigid applications of rules. Although law is “naturally” indeterminate and judges apply discretion when deviation seems useful, bending law in response to social directives is limited by what disputants memorialize within their agreements (Deason, 2001, p. 86). Judges and juries decide issues on facts available. Choices are restricted by admissible evidence that limit options among alternatives from which to “pick” or “choose” (Van Domselaar, 2013, pp. 228–229, citing Altman, 1986, p. 187). Courts discern what law to apply, while lawyers guide their clients in handling claims to reduce uncertainty (Van Domselaar, 2013, p. 229). In a complex society, competing interests struggle to enforce the expectation of expectations. For example, it is “equitable” to permit a possessor to retain all, some, or none of a benefit depending on the facts. Aristotle distinguished harm created by a wrongdoer from harm suffered by a victim, suggesting subjective interpretations lead one to understand that contracts themselves are not “good” or “bad,” instead it is the intent of the actors that matters most in judicial process.

Autonomy, Security, and *Parens Patriae*

When a transaction imposes a unit of loss allowing gain, it reallocates value leaving a net aggregate “zero-sum exchange” that while appearing inefficient is often satisficing. While competition produces diverse combinations of outcomes in Pareto-Inferior, -Superior or -Optimal results, individuals perceive value in relinquishing rights, duties or acquiring equivalent benefits, obligations and participants engage in social activities expecting to enjoy value comparing a present, less efficient use to a proposed more beneficial one, although nothing guarantees gain, avoiding “unconscionability” is always a desire and obtaining social utility confirms ends are “good,” even if a means used suggests failure (Golecki, 2013, p. 251). Adjudicating disputes is fraught with risk. Legal process addresses primitive, self-interested sensibilities, guides them toward resolution, while boundaries of sense, sensibility, rule, and reason confine, govern, and restrict effect (Van Domselaar, 2013, p. 229). Law works on experience, formulates explicit commandments, imposes socially acceptable norms on participants equally to contain the range of possible outcomes and sum of values (Van Domselaar, 2013, p. 230). The viability of takings by exchange depends on expected social welfare gains while the supply of reciprocal needs converts wants into concessions. Public Choice theorists explain state intervention distorts private relations.

Courts monitor the creation and elimination of obstacles to utility where mystification of what is “fair,” “good,” and “just” makes it appear those elements are necessary, reasonable, and useful when in fact they are exaggerations borne of “concealed private effort” motivated by self-interest to further “rent seeking” conduct, which is “bad.” Judicial activism corrects such untoward applications where judges follow binding rules, uphold custom, practice, precedent and tradition, recognize the necessity of yielding to objective, compelling claims that seek confirmation and modify decision-making accordingly (Van Domselaar, 2013, p. 230, citing Hart, 1961, p. 205). The language of law constrains judges who must speak uniformly, despite the indeterminacy that applies (Van Domselaar, 2013, p. 230, citing Kramer, 2007, pp. 4, 15). Some confusion remains at the border between encouraging self-determination and imposing conditions to secure “fair” outcomes, particularly where the adequacy of consideration is a “non-issue,” and skilled hagglers and truckers exploit others as possible. Law safeguards against unconscionable terms but does not protect naïvete, will not ensure strict equivalence, will impose exceptions in exigency in mitigation but will not solve all problems (Golecki, 2013, p. 250). The difficulty of lacking equivalence is the motivation for achieving equity, but privacy and confidentiality require nurturing and reliance on general beliefs in common sense, logic, and science acknowledge emotions, distort thinking and

admit state-imposed determinations interfere with equity destructively. In this way, “filling in the gaps” must avoid substantively changing clearly expressed promises. For example, parties revise agreements and adjust to changed conditions declaring an “efficient breach” to correct imbalances (Deason, 2001, p. 86; Van Domselaar, 2013, pp. 230-231; Golecki, 2013, p. 252, citing Pringsheim, 1950, pp. 130–137).

Individuals act with purpose, knowingly create beneficial bargains, use law to achieve “good,” improve utility, promote peaceful, productive social relations, and memorialize such gains in bargained-for contract terms (Deason, 2001, p. 86). Certain preferences interfere with decision-making. While law recognizes an innate freedom to bargain exists, such liberty relies on subjective understandings of what is “best in the moment,” even if an objective review is the norm in legal analysis. Clearly, liberty of contract means individuals are free to alter their positions according to what they view is in their best interest and they can only make “good” decisions if accurate information is available to them. If an objective measure of justice is applicable, and law applies generally and equally, then, for example, reliance to detriment on a promise will alter the equity calculus and law will intervene to impose procedural and socially paternalistic effects without regard to subjective circumstance (Van Domselaar, 2013, p. 234; Golecki, 2003, p. 6). Of course, the definition of “necessity” will vary as when the barrier between private and public spheres dissolves. In such cases, there is a risk law will turn oppressive, denying freedom, eliminating the lines of separation between the spheres and encouraging individuals to focus on negotiating advantage, sizing up the weaknesses of their opponents, articulating their interests, instead of recognizing commonality, engaging in creative assessment, and discerning mutually beneficial solutions to produce subjective utility (Kovach & Love, 1996, p. 131; Golecki, 2013, p. 252). In this, “good” means “likely” to produce “benefit,” even if the state expresses paternalistic tendencies that narrow freedoms. If participants avoid state mandates there will be less state interference and more reliance on autonomy (Golecki, 2003, p. 6). Individuals engaged in conflict know protecting confidentiality ensures more effective information-sharing, avoids misrepresentation, and attracts acceptable conduct using a “bright-line approach” to excise coercion, deceit, duress, fraud, and inequity (Deason, 2001, p. 87; Golecki, 2003, pp. 7–8).

Aristotle explained how subjective analysis in bargaining is appropriate as negotiations involve estimating valuation of goods belonging to one compared to goods of another to discern their “equivalence” (Golecki, 2013, p. 252). Sharing accurate information aids in narrowing alternatives. While some theorists assert settlement is the primary bargaining goal, others insist reconciling misunderstandings, promoting good social relations, and sharing meaningful information are more important aspirations. Lawyers bring value to clients representing them “well” by minimizing costs or delays, maximizing returns or claims in the sense of expanding “claim value,” achieving adequate results by fulfilling wants and needs—meaning securing “advantageous terms” (Kovach & Love, 1996, pp. 131–132), which detail identifies a significant shift in priorities from reliance on adversarial contestation to more modern innovations promoting self-determination, conciliatory value-creation, maintenance and claiming (Whincop, 2000). Bargaining is a combination of evaluative, facilitative, and transformative interactions using advantage, asymmetrical design, and pressure to achieve rough equivalence in terms (Kovach & Love, 1996, p. 132). For Aristotle, “justice” meant satisfying “ends aimed at generalizing rules of distribution,” achieving efficient allocations within a structured framework, producing better “matching of reciprocal parts” using mirror-image proportionality to reframe the “puzzle” of a “problem” by simplifying relations, restoring balance among discordant factions and applying imagined corrective measures to claim a “fair condition of exchange,” despite competing interests

(Golecki, 2013, pp. 250–254). Utility is an objective of economic activity that views reciprocity as equivalency and this is complex as valuations do not easily correlate (Golecki, 2013, p. 255). The economic sub-system of society interacts with law to define private ordering of market flows, encourage greater efficiency and limit judicial intervention by elevating equivalency beyond reciprocity, encouraging productivity and net social “good” through law to support economic reproduction, to advance personal autonomy, which is the essence of being “good” (Whincop, 2000, pp. 113–114).

Law, Economics, and Equivalence

Law and economics scholars analyze law using economic theory to explain motivations and impacts, causes and effects, on society and individuals, where people and associations act on property using legal principles and rules to create economic advantage. Theorists take comfort that advantage does not necessarily require harming others, but in truth, the intersection of political and social relations with economy and law is a space where law impartially mediates conflict when interests are at odds promoting autonomy and seeking to secure order through balancing choices and individuals do experience pain and suffering due to regulation, deprivations of liberty to advance security and taking often precedes giving (Whincop, 2000, p. 114). Markets create economic prosperity. They allow persons to accumulate capital, expand economic value and courts facilitate this process reducing transaction costs, easing friction, promoting freedom, limiting choices, and favoring certain practices over others “naturally” (Whincop, 2000, pp. 114–116). Aristotelian law and economics promote “equivalence” as a unit of measurement and factor of expression. It is nonetheless important to acknowledge that it is the participants, not the contracts nor their terms, that represent “goodness.” Contracts are not in themselves “good,” they do not anthropomorph but instead they are devices that use language to define relations wherein mutual and reciprocal rights and duties interact and the structure of remedial responses appears to compensate for damage and will possibly disgorge wrongful gains and correct moral “wrongs” (Golecki, 2013, pp. 256–259; 2003, p. 8). Contracts promote efficient relations, achieve “better” allocations, “fairer” interpretations and avoid “system collapse” challenging “the validity of a [contested] mediated agreement” based on fraud or misdeed (Golecki, 2013, p. 259). Aristotle envisioned a “generalized” allocation system flexible to avoid collapse yet stable for certainty.

Aristotle sought ways to encourage equitable distribution of goods accepting the difficulty of establishing a “just” equivalence standard. He noted balancing undoes “discrepant behavior,” encourages “good” results by overcoming immoral desires such as possessing what belongs to “thy neighbor,” wanting to retain possessions wrongfully obtained or expecting “unjust” transfers to be permanent when they are “mistakes” in need of correction by reversal of “inconsiderate” acts in an expression of adequately resolving competitive pressures to achieve “accurate” valuations of claims (Deason, 2001, p. 87; Golecki, 2003, pp. 13–14). Contract enforcement follows the evidence and the money. Enforcement corrects errors borne of misunderstandings, admits differences of opinion are due to diverse traditions that impact perception and as individuals adopt conditions, define reciprocal rights and duties, strive to expand freedom, they accept limitations as inevitable where a welfare-maximizing free market restricts state authority to interfere with and narrow private choices and options (Whincop, 2000, p. 117). Parties enter contracts to define their rights and duties and to negotiate suitable allocations of same. Strategic behavior alters positions and approximates equivalence. Aristotle considered advantage-seeking “natural” and explained that confirming “equivalence” describes how economic activity begins socially while custom

defines an acceptable range for “ethical” conduct such that “moral” codes dictate choices among competitive aims to maximize self-interest, without doing harm to others, which is “good” (Whincop, 2000, p. 117; Golecki, 2003, p. 14).

The resource allocation process encourages efficiency. The “adequacy of consideration” is a non-issue, however, so it is accurate to say, resource maximization through reallocation is not “bad,” unless it creates a substantial inequity (Golecki, 2003, pp. 16–17). The amount of inequity necessary to be “substantial” is a matter of perspective but certainly “unconscionability,” qualifies and while the definition is not precisely ascertainable, one “knows it when one sees it.” For example, if an “innocent” suffers harm, courts may intervene to identify a better pathway forward (Deason, 2001, p. 87, n. 218, referencing Korangy, 1990, p. 73) but, if a judge is inclined to reverse an apparent inequity, that willingness signifies how freedom to contract has limitations, parties must comply with conventionally accepted principles and rules and regulations within which actions and the theory of “equivalent exchange” is “roughly bargained-for” in forms such as the “genetic”—regarding coordinating corresponding obligations, the “conditions”—regarding “division” and how performance creates binding obligations and the “functional”—regarding the risk of “defection” meaning “nonperformance” that dissolves a contract (Golecki, 2003, pp. 8, 17). In cases where parties find themselves “repeat players,” as opposed to “one-shot participants,” perspectives vary and individuals will seek to maximize utility in contract formation, the understanding of terms, and the performance of expectations, within which parties will evaluate the entire relation to determine whether satisfying the expectation of expectations is potentially efficient. It is possible “Pareto-Efficient” results will improve utility for one party, while it degrades utility for another while economic, political, and social sub-systems seek balance.

In sum, theorists recognize rules assume default forms, prices react to information exchange, “contractibility” depends on reciprocity and equivalence, while judges apply law to facts loosely, or strictly, depending on circumstance and preference, but must remain impartial in terms of applications, contingency, and morality (Van Domselaar, 2013, p. 234). Judges cannot be “results-oriented,” must adhere to the “blind” rule of law, cannot express bias or preference, and must exercise self-control over emotions and rely on reason while avoiding “the appearance of impropriety” while implementing judicial economy, accommodating moral and practical considerations, and overcoming the “messiness,” limited intelligibility and moral loss of social relations resulting from long-contested interests (Van Domselaar 2013, p. 234). The Restatement (Second) of Contracts (1981) reveals how law mitigates these concerns applying parol evidence to permit access to limited information useful for establishing or refuting “illegality, fraud, duress, mistake, lack of consideration or other invalidating cause” where disclosing such information is helpful in reducing misunderstandings or shifting contest from a “non-cooperative” to “cooperative” model to promote understanding, even if economic valuations are not equivalent (Deason, 2001, p. 88, n. 219; Van Domselaar, 2013, p. 234; Golecki, 2013, pp. 1, 261). In this, law does not require contract equivalence, judges use a wide range of tools in deciding applications such as conventional wisdom, moral authority, the character of a transaction, economic relations, social bargaining, maximizing wealth and minimizing negative impacts of moral hazard or adverse selection (Golecki, 2003, p. 2; Van Domselaar, 2013, p. 235).

Liberty and Security Collide in Judicial Decision-Making

Liberty and security collide on a sliding scale of degrees of significance, with one yielding to the other depending on the facts. Freedom to contract is never absolute. Legislators limit judicial discretion ascertaining “the scope of the exception and standards for invoking it,” while judges limit legislator control over judicial process by requiring law makers to enact laws consistent with due process or suffer undesirable interpretation. Meanwhile, jurists restrict their own authority with deference, recusal or by insisting on narrow exceptions with stringent standards of review in determinations (Deason, 2001, p. 88). Preserving confidentiality in claims-handling and encouraging accurate information-sharing minimizes risk of harm from adverse selection or moral hazard (Whincop, 2000, pp. 118–120). In this way, confidentiality and access to information are not mutually exclusive. The tension between autonomy and security treasures privilege. The two concepts are not inconsistent as discretion, flexibility, and ad hoc balancing promote accurate evaluation of “meritorious defenses and claims,” assessments of liability and identify “peculiarities [that] impact correctness of choices made,” including the proper weight of elements and variable individual and collective perceptions (Deason, 2001, pp. 89–91; Van Domselaar, 2013, p. 235). In deciding cases, judges seek truth, search for existing reality, “discover meaning” and apply critical analysis to discern “correct” moral visions and accurately reflect socially acceptable wisdom, so jurists “come to know the truth,” to “see rightly” to apply law “justly” (Domselaar, 2013, p. 235).

Political machinations may influence judicial decision making, for example, differing philosophies (conservative or liberal) influence perceptions of equivalence. This is not unlawful bias but different ways of thinking through a problematic can lead to different results depending on the predominance of active or passive approaches in case analysis, meaning the tendency to gravitate toward or away from interference or deference (Whincop, 2000, pp. 120–121; Deason, 2001, p. 91). In reviewing a failing contract (the failure of which may result from a dispute over terms) the inability to adequately correct errors or clarify conditions “automatically” reveals a “deficiency of completeness” requiring intervention to impose solutions, offer direction, enforce terms, or correct faulty language to grant rights, impose duties, relieve concerns, or otherwise resolve disputes. Courts avoid probing into confidential aspects of agreements preferring to “tread lightly” and just as parol evidence is an effective “rule of reason” that limits the range of data available to reinterpret meaning beyond expressly written words, so too is the statute of frauds a limit on scope of review that makes evidentiary writings a prerequisite to enforcement and encourages courts to treat confidentiality with care and sensitivity. Efforts to enforce settlement should not infringe automatically on “confidentiality [with] set aside if the other party alleges a defense” (Whincop, 2000, pp. 121–122; Deason, 2001, pp. 91–93).

This point emphasizes the importance of confidentiality in legal proceedings. It creates “an envelope of certainty and stability,” penetrable when competing interests require piercing a veil after “deciding whether to hear [] testimony under seal” or “to then unseal” it without hesitation which suggests a certain “pragmatism” to balance the relationship between law and economics (Deason, 2001, p. 95; Luhmann, 2004). Clearly, courts serve many masters, and carefully weigh the impact of logic, formalistic exactitudes, instrumental, imaginative, and evolving flexibility, utility, and admit these elements all intertwine in legal analysis (Whincop, 2000, pp. 124–125; Luhmann, 2004). This weighing is to balance competing interests by their valuation, which depends on utility, and so, gatekeeping judges manage litigation pathways applying practical wisdom tempered by guidelines that focus on “virtues,” relevance, principles, and precedents in conjunction with specific facts to give effect to law as “truth” and equate “correctness” with

“goodness” and confidentiality of sensitive, useful data, and information (Van Domselaar, 2013, pp. 235–237; Deason, 2001, pp. 95–96).

Correcting Contract “Deficiencies”

Law serves diverse social sub-system “masters,” each with the goal of “fixing” problems. Judges decide cases to resolve disputes discerning equitable solutions to remedy “breakdowns” or “deficiencies” in the application of law to facts (Luhmann, 2004; Deason, 2001). Piercing existing privilege is justifiable, if a party waives confidentiality, or there is some “urgency” to excuse “exception” allowing an intrusion justified by solicitude to clarify defenses or obtain necessary information (Deason, 2001, p. 96). When differences of opinion collide, one inquires beyond surface boundaries to identify deeper meaning and answer pressing questions. Contract principles guide claims-handling by responding to non-performance, -cooperation, and -reciprocity, but equivalence is subjective, and compliance with agreed terms assumes mutual benefit exists in accordance with expectations (Golecki, 2003, p. 17). Lawsuits arise from and exacerbate animosity, irrationality, error in judgment, changes in circumstance, but courts get past such obstacles and apply firmly established principles to resolve repetitive problems to avoid harm resulting from adverse selection or moral hazard choices (Golecki, 2003, p. 2; Whincop, 2000, pp. 126–127). Adverse selection and moral hazard occur when a disputant imposes coercion, duress, or fraud upon another to obtain advantage although law minimizes this risk of harm by focusing on whether “rights or interests” need protecting and contracting remedies much as “Prisoners” struggle with their “Dilemma,” feeling unsure whether defecting or cooperating is the better choice but seeking a means to advance their “condition” of coordination (meaning to contract), “division” (meaning to define terms) or “defection” (meaning whether to perform) (Deason, 2001, p. 96; Golecki, 2003, pp. 17–18).

Bargaining creates opportunities to explore efficient arrangements, set terms of “good” for-profit- or “bad” for-rent-seeking ends, define “goodness,” resolve “coordinating,” “dividing,” and “performing” issues, identify whether to contract, under what terms, how to handle default, acknowledges the prisoner’s “moral dilemma” exists, and unwind the tightening of equivalence by choosing not “to harm others to help oneself,” which is to embrace Aristotle’s “civic friendship pact,” avoid transaction or enforcement costs and transform non-cooperative into cooperative games splitting payouts “fairly” to secure “win-win” results (Golecki, 2003, p. 18). Aristotle taught that evaluating relative wants and embracing “good faith” options leads to “manifest justice,” choosing “good” is easy if one can comprehend subjective interpretations cloud perception, and so denying such conclusions will promote open, honest information-sharing and lead to efficient agreements and diverse combinations that cancel out competing interests while “coordinating” complicit interests that expand collective resources and create synergistic gains in an accretion model that favors sacrificing freedom for security (Golecki, 2003, pp. 18–19; Deason, 2001, pp. 96-97, n. 253). Aristotle found channeling human self-interest toward equivalence is a means to mollify disruptions resulting from failed conditions of “less than first-best outcomes” and thereby create “relatively” fairer exchanges (Golecki, 2003, p. 19).

Aristotle also found the exercise of autonomy is essential to discovering a means to substitute agreeable for disagreeable terms, minimize negative effects of adverse selection and moral hazard and avoid the necessity for state intervention, which only serves to complicate relations by imposing additional, unnecessary burdens that interfere with liberty. Judges acknowledge they do not have access to “perfect information,” and more likely than not, they will

fail to comprehend which alternative among several is better-suited to the needs of unique parties, and so, accepting this, they will rely on advocacy as expression of the “invisible hand” of accurate “equivalence,” intervene only reluctantly, tread lightly and follow a ponderous ritual of gathering as much information as possible before reaching conclusions or attempting to identify outcomes, presuming disputants will openly advance their interests and behave rationally in evaluating opposing claims and defenses and argue forcefully for their interests so that the competitive spirit fleshes out efficient, equitable results (Whincop, 2000, pp. 130–131; Deason, 2001, pp. 98–101, referencing Olam, 1999, p. 1126; Golecki, 2003, pp. 21–22). In this, law is an arbiter of efficiency, equity, equivalence and “good” process, it encourages disputants to identify what they desire, to advocate for their interest, share available information and pursue process to defeat their opponents “fairly,” and in compliance with socially acceptable “rules,” where “fairness” is relative and responsive to codes of social construction based on morality, norms, outcomes and perceptions that are not necessarily accurate, but enforceable so long as they promote “improving conditions,” mutually reciprocal, equivalent and beneficial “good” and further social welfare gains (Golecki, 2003, pp. 22–24). The meaning of “goodness” nevertheless remains contested. Law is “good” when useful. While the concept of “goodness” is tied to public welfare, and one certainly “knows it when one sees it,” law can only aid in achieving Pareto-Efficient, -Superior or -Improvement results when procedure appears fair, bias and misrepresentation are absent, transparency predominates and the process afforded is the process due (Jacobellis, 1964; Golecki, 2003, p. 3).

Civic Friendship and The Good Life

Principles and rules of law guide judicial decision making within a range of reasonable alternatives. Judges consider the legitimacy, necessity, and urgency of conflicting interests and the “virtuous” among them reach opposite conclusions on similar facts (Deason, 2001, p. 102; Van Domselaar, 2013, pp. 237–238). The Aristotelian notion of “civic friend” embraces the social contract partnership relation by which “members” cooperate to advance self-interest, couple social gains with sacrifice of individual freedom and promote self-interested certainty, security, and stability for the promise of self-determining safety, stability, and equilibrium to achieve social welfare “goods” and personal peace (Van Domselaar, 2013, p. 239). The freedom to contract is integral to efficiency. Economic, political, and social systems express doctrinal and empirical definitions for regulating the interdisciplinary content of law (Golecki, 2003, p. 3). For its part, law mediates the entirety of economic, political, and social pressures, imposes changes to the sub-systems and is altered by them given the reciprocal nature of regulatory interdependence that encourages the spheres to accept the doctrinal and empirical restrictions imposed so they may flourish consequently (Whincop, 2000, p. 142). This “civic friendship pact” is the essence of the social contract, promotes reciprocal goodwill, conjoins “good” for self with “good” for others, and presupposes net social gain where all behave selflessly self-interested (Van Domselaar, 2013, pp. 239–240, citing Cooper, 1999, p. 317).

The social system contains reconcilable exclusivities, incomparable yet equivalent. Rather than admit of a competitive nature seeking “efficient” results, the social welfare obligation norm and “invisible hand” independently encourage collaborative effect to equate utility with mutual gain not necessarily in each iteration, but over the long run (Van Domselaar, 2013, p. 240, referencing Cooper, 1999, p. 327). Aristotle’s three forms combine in a “friendship pact,” mix selfless and self-interested parts to effect “advantage-seeking” for reciprocal personal gain, “pleasure-seeking” for equalizing benefits and burdens, and “unconditional character” for

surpassing the binding nature of typical, contractual, consideration-based exchanges (Van Domselaar, 2013, p. 240). Achieving Pareto-Optimal results is possible but will not resolve contradictions of equivalence that require defeating subjective reciprocity where “performance” meets mirror image “counter-performance.” Courts look for objective measures in reviewing disputes, deny enforcement for noncompliance in “efficient breach,” even if “moral” questions lead to economically rational determinations that sound in contradiction and require accepting the fiction a promise is illusory to negate legality (Golecki, 2003, pp. 3–4). The “civic friendship pact” is empathic, not “conditional” – it exists not because one is loved or will provide useful service – but occurs naturally, satisfies the need for comfort in the human psyche, and is the “highest form of friendship” according to Aristotle (Van Domselaar, 2013, p. 240).

Contracts express private, individual, mutually reciprocal advantage-making and taking, promise equivalence, equity, utility, and valuation but the question remains whether the social welfare obligation norm is equal in measure to the “invisible hand” of law and economics (Golecki, 2003, pp. 4–5). Aristotle argued “civic friendship” animates relations, shares concerns socially, creates opportunity for economic and political effects to benefit all and so, consistent with that premise, this article concludes with a thought experiment on whether one element can continue to exist without the other, and suggests the “civic friendship” relation represents the status of being selflessly selfish and benevolently self-interested at once, one is the obverse, reverse, backward or inside-out mirror image version of the other, each exists opposite and corresponds to the other and the competitive spirit and social welfare obligation norm are corresponding alternatives equally manifesting that coexist peaceably while remaining at odds. This tension is advantage-seeking and associational, creative, and destructive, individuals accept burdens for unidentified benefits without keeping a tally of gains and losses or credits and debits and costs ultimately accrue and must be paid from receipts honestly earned (Van Domselaar, 2013, p. 241).

Conclusion

This article began with an inquiry into whether contracts are “good” and ends with the finding they are useful, incapable of anthropomorphic labeling, and although the natural inclination is to demystify complex, mysterious, and questionable phenomena that challenge understanding, efforts to attribute intentionality to the apparatus are naïve. Essentially, contracts produce “good” or “bad” results depending on certain actions taken by individuals. Contracts connect parties in an imagined project, guide human relations toward enhanced functionality, and provide society with a systemized form of anthropomorphic representation helpful in efforts to effectuate socially (re)productive results, but these are not “good” or “bad” per se. Those who engage in anthropomorphic reflection are advised to leave their bright-line rules, divisiveness, and inflexible methodologies behind and instead approach the bargaining table with intention to promote understanding, pursue fairness, tolerate exceptions, and modify opinions based on facts as they appear to identify effective solutions to problems in interpersonal relations. The conclusion this article reaches is contracts are not “inherently” “bad” or “good,” but the actors who bargain for advantage behave “badly” or not, as they jockey for superiority. Participants in negotiation exercise freedom of choice and choose well or not, live “the good life” or not, make better choices or not, embrace sacrifice to accommodate needs of others, or not, and forgo insisting on the “full measure of their due” by adopting a “civic friendship” “lifestyle” prioritizing relations over personal gain, or not (Van Domselaar, 2013, p. 241, citing Cooper, 1999, p. 333). Parties in “civic friendship” relations appreciate others are extensions of self, harm to one is harm to the other,

collaborating promotes self-interest and the interests of others. In this way, “good” behavior is self-perpetuating and fulfilling, and as such is a prophesy that fulfills and perpetuates selfishly and selflessly (Van Domeselaar, 2013, pp. 241–244).

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About the Author

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Discussion Questions

1. A contract is an agreement between parties concerning reciprocal promises. What does it mean to say, “courts won’t inquire into the adequacy of consideration”? Should courts make such an inquiry? Support your conclusion with an example.
2. What does the phrase enforce the “expectation of expectations” mean? What does anthropomorphic labeling mean? Explain your answers.
3. Do economics, philosophy and psychology principles adequately describe the proper functioning of law? Explain your answer.
4. In your opinion, is it “better” for society if judges actively interpret the law or passively apply principles of law to established facts? Explain your response by addressing both alternatives and selecting one over the other.
5. Are contracts “good”? Explain how you reach the conclusion that you do.

To Cite this Article

Kleeger, J. (2024, Spring). Contracts are “good,” aren’t they? Law as philosophy and the adequacy of consideration. *Journal of Multidisciplinary Research*, 16(1), 5–28.

Germany's Tax Revenue and its Total Administrative Cost

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Abstract

Tax administrative cost reduction is an economically and socially desirable goal for public policy. This article proposes total administrative cost as percentage of total tax revenue as a vivid measurand, also useful for cross-jurisdiction comparisons. Statistical data, surveys and a novel approach demonstrate: Germany's 2021 tax administrative costs likely exceeded 20% of total tax revenue, indicating need for improvement of Germany's taxation system – and for the many jurisdictions with similar tax regimes. In addition, this article outlines possible reasons for and implications of the seemingly high tax administrative burden as well as solutions.

Keywords

tax revenue, ratio, percentage, economics, public policy

Introduction

Background

A priori, it is desirable to reach goals as efficiently, meaning with spending as little resources –or 'cost'– as possible. Therefore, to minimise waste of society's resources, the aim should be to reach the goals of taxation with as little cost as possible. The 'hole in the redistribution bucket' can be a suiting imagery. This article examines those costs, which directly arise with tax revenue, and not how well the current situation reaches the goals of taxation.

This article defines *tax administration cost* as cost – whether in currency, labour or other forms – for the *revenue side* of taxes; for example, for preparing documents, declaring or auditing. Those costs arise on the government side. There, it includes tax auditors, collectors, and so forth.

Costs for legislation and policy creation may not clearly arise for tax *revenue* or at least is not easily distinguishable. Perhaps more fittingly, those should be in another category and have the name ‘legislative tax costs’ or there like. The bulk of cost, though, arises on the taxpayer side. Because most jurisdictions transfer the majority of tax administrative burden onto the taxpayers, who need to prepare, declare etc. taxes themselves, which often requires extensive time and not seldom expensive professional assistance. The government then only roughly or randomly audits a fraction of those tax declarations, in addition to its other roles such as other areas of tax enforcement and collection. The taxpayer’s cost can be further subdivided, see under Classification.

Noteworthy, tax administrative costs are not the only costs for society associated with taxation. The other two include costs for the spending part of taxes – such as for legislative or executive politicians, who debate how much, for what and where to spend; or officials and company employees, who need to work for example on tendering or procurement. The third group of ‘welfare’ or ‘deadweight loss’ is the inefficiency of the allocation of capital by the government: Logic and historical experiences indicate profit-orientation to be the most efficient system available when it comes to resource allocation for a society’s wealth creation (Smith, 1776, p. 90; Ricardo, 1912, p. 48; Anderton, 2015, pp. 23, 165, and 442). The government taking resources from profit-oriented individuals and companies for ‘non-profit’ or ‘loss-bearing’ endeavours may therefore also constitute (opportunity) costs.

This research focuses on the first-mentioned group because it is

1. the most objectively measurable of the three,
2. the best visualisation of ‘transaction cost’ of money from citizens to government, and
3. most useful to know for society and public policy: It is likely the largest, objectively measurable cost group and necessary to know for significant improvements in society and comparisons between different systems.

Only when one knows the current situation one can improve it or compare solutions.

Research Necessity

The Literature Review section shows a recent figure for the comprehensive ratio is not existent for Germany and barely existent for other jurisdictions. This article not only provides a current figure for Europe’s largest economy and explains why it matters but also proposes and transparently presents a novel yet straightforward way of arriving at it.

This research chose the jurisdiction of Germany as its example because it has the advantage of using common taxation principles and ranks neither particularly high, nor particularly low in tax rankings evaluating easiness to pay taxes and tax competitiveness (PwC, 2020; Bunn, 2022). Taxpayers there can expect to neither spend a lot more nor a lot less time on taxes, for example. Those suggest a well-suited example for – and this research’s results to be comparable to – many jurisdictions.

Besides, the most current comprehensive ratio for its tax system refers to the year 1984 (Hoppe, 1996, p. 41). This makes Germany a suitable research object for three more reasons: The latest value for 1984: (1) indicates the necessity for more current knowledge; (2) can serve as a ballpark confirmation of this article’s results; and (3) allows for a time comparison: It gives

an indication regarding the change in tax administrative efficiencies or burdens between the 1980s and 2020s.

Knowledge Contribution

This research project encompassed gathering data on tax revenue and administrative costs, bringing it in logical order and drawing conclusions from it. It visualises and justifies the approaches the researchers chose. It addresses possible objections readers of this research might have with counterarguments, explanations and reasoning for its novel approach.

Although all attempts to quantify total tax administrative costs can be only an estimate, this article updates public knowledge with a current value. The figure itself as well as the paths to it transparently allow for researchers to use, scrutinise, and improve them. Besides, this article discusses reasons for and implications of the results as well as possible improvements.

Literature Review

While plentiful data regarding taxation is available, few compilations and analyses of this data exist to determine the ratio proposed above. The last, similar calculations found for the jurisdiction of Germany are both for 1984 and both arrived at around 16%, yet one of the two values refers only to the taxpayer's side of costs (Hoppe, 1996 p. 41).

More calculations exist only for other jurisdictions and too are seldom for current years. For Canada for instance, Vaillancourt (2013 p. 91) calculated 4.1-5.1% for 2007 and 4.7-5.7% for 2011 (p. 99) – when using OECD's (2023) number for Canada's tax revenue for the 2011-value.

Other available gauges are only remotely similar, as they focus on specific taxes and often either compliance cost or the government side of costs, but not for comprehensive costs of the overall tax system. Vaillancourt estimated “the total cost of operating the personal income tax and payroll tax system in Canada in 1986 [...] to be [...] 6.9 per cent of the taxes collected.” (Bird, 1990). Blaufus (2019, p. 953) calculated the taxpayer side of the costs for income tax to be only 2.03-2.92% of tax revenue for Germany in 2015, despite claiming “international comparisons illustrate that the German burden is still located in the upper middle.”

Again, for Canada, Vishnuhadevi's (2021 Appendix) literature review mentioned the compliance cost alone for VAT to be 40% of tax revenue – referring to a study conducted by the Canadian Federation of Independent Business with 25,362 respondents for 1991. The compliance cost of personal income tax in the 1980s was mentioned in Pope (1993, p. 76) to be 2.5% for Canada, 3.6% for the UK, 5-7% for the US and 7.9-10.8% for Australia. Compliance cost of public companies' income tax were 11.4-23.7% for Australia, 2.2% for the UK and up to 19% for New Zealand (p. 77).

The variety of results arguably also indicate intrinsic uncertainty connected with calculating such values and the different methods used – as likewise suggested by York (2018) – as opposed to actual differences. Such uncertainties might be higher when trying to separate ‘compliance’ (meaning taxpayer cost) and government cost, all for different kinds of tax – as opposed to looking at aggregate costs and revenues.

Evans' (2007) literary analysis “suggest[s] that compliance costs of [income and value added] taxes are typically anywhere between two percent and ten percent” (p. 457). The author's review further indicates that compliance costs exceed “administrative costs” – the later meaning the cost of government – and that the average EU company with less than 250 employees has

compliance costs equivalent to 31% of taxes paid in the early 2000s (p. 458). Evans further concludes that compliance costs have risen between the early 1990s and early 2000s in the US and EU (p. 459). For the US federal income tax in the year 2004, Moody (2005, p. 2) calculated compliance costs of 24.4% of tax revenue; on the rise since 1990, where it only amounted to 14.1%. In contrast, Keen and Slemrod (2017, p. 9) – referring to a 2004 Slemrod paper – put those ‘complying’ costs at 11% and only 0.6% for the government side of costs.

Most available literature focuses on the government side of cost and ignores taxpayer’s (‘compliance’) costs because the former is readily available and the latter are hard to approach. However, this likely distorts reality, because most jurisdictions have a ‘declare yourself’ system, forcing the bulk of tax administrative burden onto the taxpayer; see also Evans (2007, p. 458). The OECD (2022a, Table D.3), for example, even only focuses on “Recurrent cost of collection” – that is only regularly reoccurring costs and only the government side – where it calculates for Germany 1.2% for 2018 and 2019 and 1.4.% for 2020. Therefore – albeit being plenty – these assessments seem least helpful and less relevant for this research issue, other than illustrating that the bulk of costs are on the taxpayer side.

Methods used include most commonly quantitative questioning, where participants self-declare how much time, money or both they spend on tax administration (Vaillancourt, 2013, p. 102; Bird, 1990, p. 356; Blaufus, 2019, p. 925; Vishnuhadevi, 2021, Appendix; Pope, 1993, p. 77; Evans, 2007, p. 456). Beside questionnaire surveys, interviews, diary and case-studies, previous literature applied documentary analyses, estimating/simulating techniques and combined approaches (Evans, 2007, p. 456). Moody (2005, pp. 14–15) for example combined average hours needed to fill out forms according to the IRS with data provided by survey participants. These data were average hourly earnings of taxpayers and their tax professionals and the ratio with which tax professionals fill out said forms.

This article presents a new method, which limits its comparability with previous research but equips the research community with a novel approach for estimating tax administrative costs, in particular the tricky taxpayer side of those costs. While official government data was compiled to evaluate tax revenues and the government side of tax administrative costs, it uses tax advisers’ average per person revenue, the total amount of tax advisers, and the percentage of taxpayers who use their services to approach the taxpayer side of tax administrative cost.

Methods and Materials

Classification

As mentioned in the Introduction, this article defines tax administration cost as cost – whether measured in currency, labour or other forms – **for the revenue side of taxes**; for example for preparing documents, declaring or auditing. For further details, see the Background section.

Those administrative costs were divided into three categories:

1. The government’s cost; especially for tax inspectors and other tax officials (category 1, Cat1).
2. The cost the taxpayer has for complying with the tax system; this can be subdivided into:
 - 2.1 External costs. This is the cost taxpayers spend for outsourcing their tax duties to other firms; e.g., for tax lawyers, consultants or auditing companies (Cat2).

- 2.2 Internal costs. Those are the costs the taxpayers have for complying themselves. Because they personally fulfil their tax duties and fill out their tax forms themselves, or because their internal employees do (Cat3).

This publication gathers data on Cat1 and Cat2. It gauges Cat3 with information on the percentage of taxpayers who outsource their tax duties. It assumes that taxpayers who use tax consultants outsource their tax administrative burden to those consultants and that their administrative costs are therefore reflected in the tax advisers' revenues. Whereas taxpayers who fill out their own tax forms – hence who do not use tax consultants – could have outsourced for the same cost. The only difference is that one is visibly measured in currency and the other is not.

Arguments and counterarguments for that approach are discussed under Rationalisation. Data had to be compiled from different sources and various assumptions were necessary to arrive at the final value. Data-gathering and -choosing; thought- and decision-making processes are explained, justified and made transparent, to allow for thorough scrutinization.

Tax Revenue

The denominator is the total tax revenue for tax administered by federal and state governments: According to Destatis (2022), those were in 2021 in million euro: 833,189 - 1,098 = 832,091. Destatis is the Federal Bureau of Statistics (“Statistisches Bundesamt”), which ought to deliver accurate numbers.

Though Real estate tax (“Grundsteuer”) and Commerce tax (“Gewerbesteuer”) belong by law to the municipalities – GG (2022) Art 106 (6) – they are almost entirely administered by the state governments, GG (2022) Art 108 (2), (4). Hence both are included and only other municipal taxes (“Sonstige Steuern”) were excluded. Destatis' (2022) tax revenue figures include all German tax revenue. Only taxes administered by federal and state governments are included, which are 99.9% (832,091/833,189) of total taxes. The 99.9%-figure includes tax that belongs to the EU – especially a fraction of value added tax. Because it too is administered by national, federal or state governments (Destatis, 2017, p. 14; 2019, 2021, 2022).

This makes sense because it is irrelevant how taxes are distributed after they were raised when determining the ratio of ‘costs of raising taxes’ to ‘tax revenue.’ The EU does not raise nor administer any taxes itself, but only receives funds. Therefore, the EU neither affects the numerator (tax administration cost) nor the denominator (raised tax).

Much like the German states administer and collect tax revenue for the German federal government, they do that too for the European Union. This article's interest lies in the ratio of total tax administrative costs (the EU does not administer tax) to the government's overall tax revenue (which includes the EU's part), and not in the ratio of any particular level of government. What is needed to fund the EU is an ‘expense’, not ‘reduced revenue’ and hence does not affect the revenue side of taxes / raised tax revenue.

Cat1 – The Government's Costs

Similar to tax revenue, costs for Cat1 can be determined with high confidence, because those are government expenses which are publicly documented, often even down to the cent values. The following excerpt of Table 1 illustrates how Cat1 was determined. For Table 1:

- When possible, the real (budget accounts) or at least updated values (budget plan for later years, with values for 2021 as reference) were used. Otherwise, the planned values were used (budget plan for 2021).
- The page numbers refer to the PDF-page-number of the latest reference mentioned before, which is found in the “Source” column. For example: The figure for the Federal Ministry of Finance is found on PDF-page 612 of the PDF-document Bund 2022.
- Last two columns in €; except original “Quoted 2021 value” sometimes in thousand €, especially when there is only one decimal place behind the comma.

Table 1 (excerpt)

Government's Tax Administrative Cost by Position

EN	Original name	Source	Quoted 2021 value	In EN numerical
Federal Government	Bund	Bund 2022		
Federal Ministry of Finance	08 Bundesministerium der Finanzen	p. 612	8.424.464.279,58	8,424,464,280
of which not for tax administration:				
Amends of the federal government	0801 Wiedergutmachungen des Bundes	p. 615	1.381.688.863,89	1,381,688,864
Federal Information Technology Center	0816 Informationstechnikzentrum Bund	p. 674	944.929.863,45	944,929,863
Financing of the successor institutions of the Treuhandanstalt	0803 Finanzierung der Nachfolgeeinrichtungen der Treuhandanstalt	p. 626	375.000.209,95	375,000,210
Burdens related to the stay or withdrawal of foreign armed forces	0802 Lasten im Zusammenhang mit dem Aufenthalt bzw. Abzug von ausländischen Streitkräften	p. 621	75.153.464,27	75,153,464
Only for tax administration:				<u>5,647,691,878</u>
% of Federal Ministry of Finance				67.04%
Population in 2021, sum of 16 states		Davies 2022		83,236,000
€/citizen in 2021				67.85

The full Table 1 – due to its size found under Appendix – contains the above as well as the values for Germany's 16 states and finally the sum of Cat1-costs of "Federal and states' governments combined," which totals 17,667,088,104€.

Cat2 and 3 – The Taxpayer’s Costs

For those categories, it is important to note the following: Being a ‘declare yourself’ system, the German taxation system passes the bulk of tax administrative burden onto the taxpayer. Taxpayers need to find out themselves what taxes they need to pay, what forms to fill out, how to correctly declare and determine their tax burdens and prepare and present all the information leading to those determinations to the government. The state then only audits with software. And a tiny fraction of tax declarations is additionally audited with human labour.

Generally, tax officials ought to only help taxpayers free of charge in cases of a “clear [...] error” or when answering questions regarding administrative, procedural processes (DE-AO, 2017 Section 89 (1)). Therefore, the state is only involved in a small part of the total tax administrative burden. Because the overwhelming majority of taxpayers fulfil their tax duties themselves (Mülhens, 2016) – as opposed to hiring a contractor to fulfil those duties for them, such as a tax consultant (outsourcing) – the larger portion of taxpayer’s tax administrative cost cannot be measured in money spent and must be gauged.

In this task, the following is helpful: In the jurisdiction of Germany, generally only certain people are allowed to conduct “commercial assistance in tax matters”, which are “tax consultants, tax agents, lawyers, established European lawyers, auditors and chartered accountants” (DE-StBerG, 2022, §3). Especially tax consultants must therefore be chartered members of the Chamber of Tax Advisors to offer tax consulting services for money, but also to carry the title ‘Tax consultant’ (“Steuerberater”). Members of the chamber must pay a regular fee of around 500€ p.a., depending on the chamber, and maintain special business insurance, which starts at over 100€ p.a. and increases with the size of the operation, to be listed as chamber members. In addition, they have to deal with the tax chamber administratively to maintain membership and likely have as formal members increased tax duties themselves, too. Therefore, it is presumed that most if not practically all members are active, because otherwise no meaningful advantages justify the monetary and administrative disadvantages that come with being a formal member.

Despite the name, tax consultants seldom purely advise or ‘consult’, but often rather fulfil many of their client’s tax duties. Since one knows the number of active tax consultants (BStBK, 2021) and the amount of revenue per tax consultant (Juve, 2022; BStBK, 2019), one can easily calculate Cat2.

Yet, the most challenging category, with admittedly the highest uncertainty, is Cat3. It is known that 28% of German taxpayers use a tax consultant (Mülhens, 2016), hence outsource their tax administrative burden. That means the other 72% do their tax duties themselves, resulting in internal (opportunity) cost that is not formally accounted for.

So this publication’s approach presumes those hidden, internal costs to be equal to the costs that would be visible, if they were outsourced, resulting in Cat3 to be $(1/0.28) \cdot \text{Cat2} - \text{Cat2}$.

Rationalisation

Albeit this being the most straightforward and hence the most unbiased, impartial and objective approach available, some readers may be sceptical about it. The following list of possible reasons why the chosen approach might be off from reality attends this possible, first glance scepticism. Within every argument (marked with an “a” after its number) is the symbol [+], if the specific point indicates the approach to be an overcount of costs. Or the symbol [-], in case the point indicates an undercount. A counterargument (b) may follow an argument.

1a: Tax consultants are not the only recipients of outsourced tax administrative costs [-]. As shown above, DE-StBerG (2022) §3 gives lawyers, accountants, auditors and more also permission to charge for tax services, hence tax administrative cost is outsourced to them also. Further, there is a whole list of other persons in DE-StBerG (2022) §4 – including ‘wage tax assistance unions’ (“Lohnsteuerhilfvereine”) – all creating significant, visible revenue for outsourced tax administrative costs not present in Cat2. By Cat2 being an undercount, Cat3 will also be proportionally. So one would need to add their revenue to the revenue of tax consultants to have the full, outsourced administrative cost for taxation (=Cat2), resulting also in a more accurate Cat3.

1b, counterpoint: That is true. Yet their cost is harder to measure, especially which of their revenue is precisely for tax services. Besides, the people using their services are mostly not present in the 28%, so adding other tax services’ revenue to that of tax consultants would lead to an overcount. Tax consultants have the advantage of dealing overwhelmingly with tax, making their revenue less ‘polluted’ with non-tax-related revenue, which mostly is not true for the other entities and groups of persons mentioned above in 1a. But tax consultants also do service necessary for non-tax-issues, like transparency – e.g. accounting and publishing of company accounts – albeit to a minor degree. The undercount mentioned in 1a is at least partly offset by the current overcount due to that.

2a: There are plenty industries’ subsectors currently not accounted for, which create revenue from tax administration related services [-]. Those include literature about tax (of which there is an enormous amount, especially for Germany’s tax system), schools and research institutions (for-profit and government run), software for Germany’s tax system (of ever-increasing value) and many more.

2b, counterpoint: This is also true. This irrefutably indicates an undercount of the current approach. Yet it also is not an undercount by 100%, because those are often input costs for the revenue of tax consultants. As far as that is the case, revenue of the subsectors mentioned in 2a (which *is* tax administrative cost for the economy) is input cost for (and therefore already incorporated and reflected in) tax consultants’ revenue. Again, trying to distinguish and finding information about the parts of revenue of those subsectors, which are related to tax services, is impractical to impossible – and what is even harder: Determining which of that revenue is not yet accounted for with tax consultants’ revenue, by being tax consultants’ input costs. Therefore, trying to be more precise here with trifles will likely result in disimprovement.

3a: Taxpayers with more tax duties – hence higher tax administrative costs – tend to be more likely to use tax consultants as opposed to taxpayers with fewer tax administrative burdens. Assuming them to be proportional will therefore lead to an overcount [+].

3b, counterpoint: While one might instinctively imagine that, it does not seem to be true; at least when one presumes higher income to correlate with higher administrative tax burdens. In Mülhens’ 2016 survey of over 1,000 participants, households with monthly net income of $\geq 3,000\text{€}$ used a tax consultant only in 22.3% of cases – distinctly below average – while both groups with lower income (2,000-3,000€ and 2,000-2,500€) scored more than 10 percentage points higher.

Besides, at least when looking at the corporate sector, the opposite seems logical: When a corporation is large enough, it makes more sense for it to have internal tax departments, which do a lot, if not all the tax work. Those employees are not required to be members of the Chamber of Tax Advisors, which can result in a significant undercount in the current approach. It is essentially

a ‘make-or-buy-decision.’ With size shrinks the relative overhead. The higher tax burdens, the more it then makes sense to ‘make’, hence to handle tax duties in-house.

Until there is objective information indicating disproportionality, it is the more impartial, objective and the default decision to expect proportionality. In the case at hand, expecting proportionality is even more appropriate, because there is logic and empirical information opposing the disproportionality thesis.

Though, admittedly, disproportionality cannot be ruled out. The logical evidence to refute it may seem weak to some and the empirical evidence is only indicative and from a single source. Also, the whole estimation of Cat3 hinges on the same, single, likely non-peer-reviewed, commercial market research study, assisted by the mentioned logic. That’s why the authors emphasize the high degree of uncertainty when trying to quantify Cat3.

4a: Even those who have a tax consultant are unlikely – or it is even impossible – to be entirely free of tax administrative work. Often, one needs to prepare documents for tax consultants, attend meetings with them, with tax authorities etc; resulting in an undercount in the approach [-].

4b, counterpoint: This is a valid point reflective of reality, leading undoubtably to an undercount in the current approach. The only counterargument is that it is also here hard – if not impossible – to accurately account for those hidden (opportunity) costs, which is why the authors avoided trying that. Though, future researchers may try to measure those costs, for example with surveys or field studies.

Considering all those points, the chosen, following calculation of costs is more likely to be an undercount than an overcount. Though, readers are reminded that Cat3 is merely an estimation with a high degree of uncertainty. The approximation is based on assumptions, which are only backed up by indicative evidence and heavily relies on Mülhens’ (2016) results. Above text – between Cat2 and 3 and Rationalisation – and the following Table 2 transparently describe how Cat2 and Cat3 was derived from the compiled data.

Table 2
Calculations for Cat2 and 3

Description	Source	[1]	Notes	Value
Revenue per CTAm[2] in € <u>Alternative value:</u>	Juve 2022	m	[3]	<u>482,339</u>
Revenue per CTAm with sole office (2017) in €	BStBK 2019	g	[4]	332,000
Inflation multiplier from 2017 to 2021	Bundesbank 2022	g	[5]	1.082846
2017-value adjusted for inflation in €				<u>359,505</u>
Amount of CTAm on 2021-01-01 -> SubtotalCat2; 482,339€ * 100,204 = €	BStBK 2021	g	[6]	<u>100,204</u> 48,332,295,152
Amount of taxpayers who outsource their tax duties -> TotalCat2+3 in €:	Mülhens 2016	m	[7]	<u>0.28</u> [8] 172,615,339,828
Lower bound in €:			[9]	128,656,522,584
Ø of above two values in €:				150,635,931,206
Final value for Cat2&Cat3 in €:				<u>150,635,931,206</u>

[1] = Expected quality/reliability of source or value (g=good, m=moderate, p=poor).

[2] = Chamber of Tax Advisors member(s).

[3] = Market data analysis: Average revenue per professional title holder of the top 30 tax consulting firms in Germany for 2020 and 2021, whereas for 2020 there is one value missing. 482,339€ is the sum of the 59 values divided by 59. Though: Full Time Equivalents. So the real number is likely lower. This was addressed by lowering the final value, through taking the mean of that figure and the alternative value.

[4] = Alternative value for above. Reliable official, source, though values from 2017 and for sole trading professional title holders only. So overall, not as appropriate as above value.

[5] = Reliable, official source. Though, CPI-inflation-adjustment is a simplified approach to adapt the 2017-values to 2021. $2021\text{-}12\text{-value}/2017\text{-}12\text{-value} = 111.1/102.6$.

[6] = Reliable, official source.

[7] = Moderately reliable source; a survey of 1002 participants from 2016.

[8] = SubtotalCat2 divided by 0.28, because only 28% of taxpayers outsource their tax duties, whereas the rest needs to pay with their own time or with currency by hiring internal employees. Arriving at Cat2+Cat3.

[9] = Using 2017-value adjusted for inflation instead of 2020/2021-Ø-value of top 30 tax consulting firms.

Results

Table 3
Results for Germany in 2021

Total tax revenue, net of tax administered by municipalities (Ttrnotabm):	832,091,000,000€
Cat1:	17,667,088,104€
Cat2 (primary value):	48,332,295,152€
Cat2 (alternative value):	36,023,826,324€
Cat3 (primary value):	124,283,044,676€
Cat3 (alternative value):	92,632,696,261€
Cat2+3 (primary value):	172,615,339,828€
Cat2+3 (alternative value):	128,656,522,584€
Cat2+3 (mean):	150,635,931,206€
Cat1+Cat2+3 (mean):	168,303,019,310€
Cat1+Cat2+3 (mean)/Ttrnotabm:	20.23%
When including tax administered by municipalities, the ratio would be:	20.20%

Summary of Results – Comparison with Expectations and Existing Literature

This research utilised a new method for calculating tax administrative costs. Hence above results have limited comparability with pre-existing research. Despite this, the final values align with what other researchers found using their methods.

Only around 10% of the total administrative cost arises at the government side, while around 90% is taxpayer's cost. This is in line with expectations, as Germany – like most jurisdictions – demands from the taxpayers the bulk of administrative burden, such as to calculate, prepare and declare their taxes themselves.

Also, the roughly 2% – government administrative cost as percent of tax revenue – aligns with the OECD's (2022a, Table D.3) estimations of 1.4% for 2020, because the OECD's number only considers "recurrent" cost of government; as also mentioned under Literature review.

The overall results match with Moody's (2005, p. 2) report, who calculated the compliance cost for US federal income tax to be 24.4% of tax revenue for the year 2004, drastically up from 14.1% in the year 1990.

Compliance cost at ca 18% of tax revenue are between Blaufus' (2019, p. 953) gauge of around 2.5% for income tax in Germany for 2015, Keen's (2017 p. 9) mentioning of 11% for the US for the early 2000s – and Vishnuhadevi's (2021 Appendix) 40% for VAT in Canada for 1991 or Evans' (2007, p. 458) 31% of total taxes paid for EU companies with <250 employees for the early 2000s.

A comparison with Hope (1996, p. 41) indicates a historical rise in tax administrative cost as percentage of tax revenue for Germany between 1984 and 2021. Moody (2005, p. 2) and Evans (2007, p. 459) too found compliance cost to be on the rise, at least between the early 1990s and early 2000s in US and EU; while Blaufus (2019, p. 928) claimed income tax cost have decreased

between 2007 and 2015 for Germany – at least for “employees who self-prepare their tax returns [...], even though the number of tax returns increased.”

Discussion

This article shows that the ratio of tax administrative costs to tax revenue is likely to be over 20%, for Germany in the year 2021. This indicates: higher tax administrative burdens outpaced possible productivity gains from digitalisation. It also shows the unsustainability of the path Germany’s tax framework is currently on.

A high rise in tax burdens accompanied with starting a business hinders entrepreneurship and a startup culture, hampering progress and innovation. Due to lower amortisation of fixed costs through scaling, tax administrative burdens are likely to hit startups and SME’s especially hard; evidence for this is also found by Evans (2007, p. 458).

While one can be very confident in values for Cat1 and somewhat confident in values for Cat2, uncertainties arise especially for Cat3. Other researchers are invited to propose better solutions to measure in particular that category of administrative tax burdens. Also, research for other tax systems would allow for comparisons between different jurisdictions, but also with other data, for example with PwC’s (2020) research regarding “Time to comply.”

Possible Explanations

Reasons for the current, arguably high administrative costs and the indication of a worsening of administrative burden, despite major advancements in digitalisation and automation capabilities between 1984 and 2021 might include the following:

Historical Reasons

The first tax systems were based on property, especially ownership of agricultural land and animals, upon which taxes were levied proportionally. This was because most people owned small plots of land which they cultivated.

During and after industrialisation, the majority of people moved from self-owned, small farms to the cities into factories, no longer owned land but had salary income. Tax regimes changed to focus on income. Current tax systems are mostly still built on the factory worker model, despite the largest wealth gaps today being no longer in salary or income, but in ownership. Monitoring cash flow, revenue, expenses and income is vastly more burdensome than taking an annual snapshot of ownership.

Instead of fundamental change, ‘change’ constituted mostly additions and higher complexity on top of the existing system, which seems to have made it more opaque between 1984 and 2021. Though ownership gaps outpaced income gaps (Bartels, 2022, Figure 3; World Bank, 2023), a focus on ownership instead of income did not occur, which could have increased tax efficiency and redress administrative strain.

Political Reality

Structural and fundamental changes in taxation – which would be necessary to leave the current path and sustainably reduce tax administrative burden – face a high political hurdle yet to be overcome by most jurisdictions: They seem risky. Politicians may be too risk-averse to wanting to have responsibility over such drastic, unchartered change.

Politicians may also lack the multidisciplinary competence and confidence to fully understand and reform taxation, which include economics, law, philosophy – including logics and ethics – psychology, sociology, mathematical statistics etc.

Hence most jurisdictions' legislators rely on outside professionals, who draft tax code changes for them. Those often include large accounting and consulting firms, who have an invested interest in maintaining the current system and for whom more tax administrative burden means more business. Legislators might hardly find law or tax professionals without such conflicts of interest. If laws and tax were to become simple, professionals and their acquired knowledge, position and advantage would become obsolete. Those might further explain why worsening instead of improvement occurred between 1984 and 2021.

Naive Interventions (a term made popular by Taleb [2012, Chapter 7], describing disimprovement)

Depicting life's full chaotic complexity and account for it in a tax code requires a lot of legal text and administrative effort. Politicians may believe increased tax code complexity is necessary for more justice, because it more accurately accounts for the eventualities and complexities in life. Tax also often tries to steer society away from unwanted and towards perceived desired activity.

Yet, the outcome is likely not only to result in more administrative burden, but also less – not more – tax justice: Those with resources can use the tax code's complexity, while those with less resources – money, time, access to and connection with professionals etc. – cannot. Over time, this tends to result in longer tax codes, higher administrative burdens, and less social justice. Apart from that, decisions might no longer be made based on real-world logic, but on tax considerations; especially when there are steering attempts. So tax code complexity will not only lead to more administrative burdens, social injustice and wealth gaps, but also to economically imperfect allocation of resources and activity.

Many Tax Forms as Opposed to One

Different kinds of taxes have been introduced over time, increasing the amount of different forms of tax. This may be because this makes the total tax burden less transparent to the taxpayer. One single, consolidated tax would be administratively easier, but also more transparent; which is of course socially, ethically and economically positive, yet may make it politically less acceptable. The OECD (2022b, Table 1.1) estimates Germany's tax burden to be 39.5% of GDP for 2021; Eurostat (2022) ascertains 42.4%. The later includes net social contributions and is close to the EU and Euro area averages of 41.7% and 42.2% (Eurostat, 2022). If the government demanded openly and transparently 40% of the average person's added value, the taxpayer might not accept that. This might contribute to why Germany stayed with an untransparent, flawed system – despite better alternatives available – and the lack of improvement between 1984 and 2021.

Possible Solutions

A fundamental change in the taxation framework, tailored to the modern times, may be necessary. This includes addressing the social reality – where ownership as opposed to income may be more focused – as well as designing it around modern automation capabilities. One form of tax replacing the many currently in place may also reduce tax administrative burden, as for instance also proposed and shown by Tuerck (2007).

Estonia is an example proofing that it is possible to overcome the impeding reasons mentioned above and implement some of the outlined possible solutions. It shows transparent, digitalised and simplified taxation is not only possible, but also successful in achieving low administrative burden – such as measured in hours needed to comply with tax duties (PwC, 2020) – while also outperforming in other metrics typically connected with efficient and beneficial taxation and prudent fiscal policy: such as tax competitiveness, where it ranks first within OECD countries, or government debt to GDP, which stands in 2023 at 19.4% for Estonia; by far the lowest in the EU and Euro area, where the averages are 85% and 91.3% (Bunn, 2022; IMF, 2023).

Another idea might be to outsource – even more – government costs to the taxpayers. Though, in the prevalent self-assessment system that most jurisdictions use, the majority of tax administrative cost is already at the taxpayer side. In the case of Germany, that is roughly 90%, see under Results. Outsourcing the government's duties further – for example for auditing or collection – to profit-oriented business – for example via a bidding process – is imaginable, yet might constitute a conflict of interest and endanger the rule of law. One reason for that is, companies would be interested in cost reduction while the government is interested in thorough and fair auditing. Besides, since only around 10% of the cost is at the government's side, it might be wiser to first focus most directly on reducing the 90% instead.

Conclusions

This article illustrates, Germany's ratio of the revenue side of tax administrative cost to total tax revenue likely exceeded 20% in the year 2021. Though there is significant uncertainty, in particular regarding quantification of hidden (opportunity) costs for taxpayers fulfilling their own tax duties, the Rationalisation-chapter lays out why the calculations for this category – and hence for overall costs – are more likely to be an undercount than an overcount.

The findings indicate a noticeable rise in this ratio since 1984, where researchers estimated it to be around 16% (Hoppe, 1996, p. 41) – despite computers, internet, digitalisation, AI and other automation capabilities since then. This insight is significant for public policy decision making, as it indicates need for fundamental change in Germany's taxation system and – due to its comparability – for other jurisdictions too. Though, the new method presented in this article limits the comparability of its results with previous research. Possible reasons for high administrative costs, likely implications of it and feasible solutions were also outlined.

Acknowledgements

The authors give special thanks to Prof. Dr. Yuri Biondi for suggestions in earlier drafts and sincerely thank peer-reviewers, editors, and the journal for their feedback and enabling this article to be published.

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Appendix

Table 1 (full)
Government's Tax Administrative Cost by Position

EN	Original name	Source	Quoted 2021 value	In EN numerical
Federal Government	Bund	Bund 2022		
Federal Ministry of Finance	08 Bundesministerium der Finanzen	p. 612	8.424.464.279,58	8,424,464,280
<u>of which not for tax administration:</u>				
Amends of the federal government	0801 Wiedergutmachungen des Bundes	p. 615	1.381.688.863,89	1,381,688,864
Federal Information Technology Center	0816 Informationstechnikzentrum Bund	p. 674	944.929.863,45	944,929,863
Financing of the successor institutions of the Treuhandanstalt	0803 Finanzierung der Nachfolgeeinrichtungen der Treuhandanstalt	p. 626	375.000.209,95	375,000,210
Burdens related to the stay or withdrawal of foreign armed forces	0802 Lasten im Zusammenhang mit dem Aufenthalt bzw. Abzug von ausländischen Streitkräften	p. 621	75.153.464,27	75,153,464
Only for tax administration:				<u>5,647,691,878</u>
% of Federal Ministry of Finance				67.04%
Population in 2021, sum of 16 states		Davies 2022	83,236,000	
€/citizen in 2021		67.85		
North Rhine-Westphalia	Nordrhein-Westfalen	Nordrhein-Westfalen 2022		
Ministry of Finance	Ministerium der Finanzen		2.803.203.700	2,803,203,700
<u>of which not for tax administration:</u>				
State building administration – Upper financial office NRW	Staatliche Bauverwaltung - Oberfinanzdirektion NRW		8.718.700	8,718,700

Asset management after liquidation of special assets	Vermögensverwaltung nach Auflösung von Sondervermögen	4.442.700	4,442,700
General allowances	Allgemeine Bewilligungen	-11.303.100	-11,303,100
Only for tax administration:			<u>2,801,345,400</u>
% of Ministry of Finance			99.93%
Population in 2021	Davies 2022		17,925,000
€/citizen in 2021			156.28
<hr/>			
Bavaria	Bayern	Bayern 2021	
State Ministry of Finance and Homeland	06 Staatsministerium der Finanzen und für Heimat	p. 171	3.032.230,3 3,032,230,300
<u>of which not for tax administration:</u>			
Administration of Government Castles, Gardens and Lakes	06 16 Verwaltung der staatl. Schlösser, Gärten und Seen	p. 122	168.851,8 168,851,800
State Ministry of Security in Information Technology	06 20 Landesamt für Sicherheit in der Informationstechnik	p. 135	21.387,5 21,387,500
State Ministry of Digitalisation, Broadband and Surveying	06 21 Landesamt für Digitalisierung, Breitband und Vermessung	p. 155	161.695,0 161,695,000
Offices for Digitalisation, Broadband and Surveying	06 22 Ämter für Digitalisierung, Breitband und Vermessung	p. 163	132.842,8 132,842,800
pure non-tax admin total:			484,777,100
<u>neutral:</u>			
Bavaria-Servers and state communication infrastructure	06 50 Bayern-Server und staatliche Kommunikationsinfrastruktur	p. 170	8.000,0 8,000,000
Ministry	06 01 Ministerium	p. 14	49.002,0 49,002,000

Other costs of subcategory 06 / Accumulations for the category of Epl. 06	06 02 Sammelansätze für den Gesamtbereich des Epl. 06	p. 26	764.228,5	764,228,500
neutral total				821,230,500
Only pure tax administrative costs:				1,726,222,700
Ratio pure-tax to (pure-tax & pure-non-tax):				78.07%
'Pure tax admin cost' + 'Ratio pure-tax to (pure-tax & pure-non-tax)' * 'neutral costs':				<u>2,367,392,695</u>
% of State Ministry of Finance and Homeland				78.07%
Population in 2021		Davies 2022		13,177,000
€/citizen in 2021				179.66
<hr/>				
Baden-Wuerttemberg	Baden-Württemberg		Baden-Württemberg 2022	
Ministry of Finance	06 Ministerium für Finanzen	p. 3	1.779.803,1	1,779,803,100
<u>of which not for tax administration:</u>				
State Statistical Office	0607 Statistisches Landesamt	p. 52	59.364,1	59,364,100
State Center for Data Processing	0610 Landeszentrum für Datenverarbeitung	p. 74	101.327,9	101,327,900
Federal Building Baden-Württemberg	0614 Bundesbau Baden-Württemberg	p. 79	0,0	0
Assets and construction Baden-Württemberg	0615 Vermögen und Bau Baden-Württemberg	p. 89	157.633,3	157,633,300
Companies and holdings	0620 Betriebe und Beteiligunge	p. 117	32.344,8	32,344,800
State coins of Baden-Württemberg	0622 Staatliche Münzen Baden-Württember	p. 126	0,0	0
Wilhelma in Stuttgart-Bad Cannstatt	0623 Wilhelma in Stuttgart-Bad Cannstatt	p. 133	11.342,6	11,342,600
Meersburg State Winery	0624 Staatsweingut Meersburg	p. 141	0,0	0

Only for tax administration:	<u>1,417,790,400</u>
% of Ministry of Finance	79.66%
Population in 2021	Davies 2022 11,125,000
€/citizen in 2021	127.44

Lower Saxony	Niedersachsen	Niedersachsen 2022
Ministry of Finance	04 Finanzministerium	p. 228 1.055.461.836,74 1,055,461,837

of which not for tax administration:

State construction management Lower Saxony – budgeted	0410 Staatliches Baumanagement Niedersachsen – budgetiert	p. 228 252.454.358,58 252,454,359
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Lower Saxony State Property Fund -Fund Management-	0440 Landesliegenschaftsfonds Niedersachsen - Fondsverwaltung-	p. 228 4.232.982,06 4,232,982
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Only for tax administration:	<u>798,774,496</u>
% of Ministry of Finance	75.68%
Population in 2021	Davies 2022 8,027,000
€/citizen in 2021	99.51

Hesse	Hessen	Hessen 2021
Hessian Ministry of Finance	06 Hessisches Ministerium der Finanzen	p. 205 1.123.556.100 1,123,556,100

of which not for tax administration:

Hessian lottery administration	06 12 Hessische Lotterieverwaltung	p. 205 — 0
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State Office for Construction and Real Estate Hesse	06 13 Landesbetrieb Bau und Immobilien Hessen	p. 205 5.907.000 5,907,000
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Hessian Competence Center for new management control	06 16 Hessisches Competence Center für Neue Verwaltungssteuerung	p. 205 83.653.700 83,653,700
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Only for tax administration:	<u>1,033,995,400</u>
% of Ministry of Finance	92.03%
Population in 2021	Davies 2022 6,295,000
€/citizen in 2021	164.26

Rhineland-Palatinate	Rheinland-Pfalz	Rheinland-Pfalz 2023	
Ministry of Finance	04 Ministerium der Finanzen	p. 5	609.554.045 609,554,045

of which not for tax administration:

Federal Building Office	04 08 Amt für Bundesbau	p. 105	5.285.469 5,285,469
State Construction Administration	04 10 Staatliche Bauverwaltung	p. 114	0
Benefits under the Federal Compensation Act (BEG)	04 14 Leistungen nach dem Bundesentschädigungsgesetz (BEG)	p. 119	33.559.555 33,559,555
Compensation Administration	04 15 Wiedergutmachungsverwaltung	p. 127	1.284.389 1,284,389
Structure and Approval Directorate North (SGD Nord)	04 80 Struktur- und Genehmigungsdirektion Nord (SGD Nord)	p. 142	1.019.360 1,019,360
Structure and Approval Directorate South (SGD South)	04 81 Struktur- und Genehmigungsdirektion Süd (SGD Süd)	p. 148	836.888 836,888

Only for tax administration:	<u>567,568,384</u>
% of Ministry of Finance	93.11%
Population in 2021	Davies 2022 4,106,000
€/citizen in 2021	138.23

Saxony	Sachsen	Sachsen 2022	
State Ministry of Finance	04 Staatsministerium der Finanzen	p. 35	557.080.770,23 557,080,770

of which not for tax administration:

State enterprise Saxon real estate and construction management	04 11 Staatsbetrieb Sächsisches Immobilien- und Baumanagement	p. 30	79.585.820,67 79,585,821
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Only for tax administration:		<u>477,494,950</u>
% of Ministry of Finance		85.71%
Population in 2021	Davies 2022	4,043,000
€/citizen in 2021		118.10

Berlin	Berlin	Berlin 2022	
Financial/Tax administration	06 Finanzverwaltung	p. 11	470.774.100
			470,774,100

of which not for tax administration:
none found.

Only for tax administration:		<u>470,774,100</u>
% of Ministry of Finance		100.00%
Population in 2021	Davies 2022	3,677,000
€/citizen in 2021		128.03

Schleswig Holstein	Schleswig-Holstein	Schleswig-Holstein 2022	
Financial/Tax administration	06 Finanzverwaltung	p. 58	249.965,7
			249,965,700

of which not for tax administration:
none found.

Only for tax administration:		<u>249,965,700</u>
% of Ministry of Finance		1.00
Population in 2021	Davies 2022	2,922,000
€/citizen in 2021		85.55

Brandenburg	Brandenburg	Brandenburg 2022	
Ministry of Finance and for Europe	12 Ministerium der Finanzen und für Europa	p. 48	411.805.159,00
			411,805,159

of which not for tax administration:

	12 060		
European Affairs and International Relations	Europaangelegenheiten und internationale Beziehungen	p. 692	3.457.681,77
			3,457,682

Interreg programmes	12 065 Interreg- Programme	p. 706	24.769.635,64	24,769,636
Only for tax administration:				<u>383,577,842</u>
% of Ministry of Finance				93.15%
Population in 2021		Davies 2022		2,538,000
€/citizen in 2021				151.13
<hr/>				
Saxony-Anhalt	Sachsen-Anhalt	Sachsen-Anhalt 2022		
Ministry of Finance	04 Ministerium der Finanzen	p. 298	281.208.953,04	281,208,953
<u>of which not for tax administration:</u>				
none found.		p. 300		
Only for tax administration:				<u>281,208,953</u>
% of Ministry of Finance				100.00%
Population in 2021		Davies 2022		2,169,000
€/citizen in 2021				129.65
<hr/>				
Thuringia	Thüringen	Thüringen 2022, Band 1		
Thuringian Ministry of Finance	06 Thüringer Finanzministerium	p. 9	193.953.130,24	193,953,130
<u>of which not for tax administration:</u>				
Thuringia Central Transport Service	06 20 Zentraler Fahrdienst Thüringen	p. 554	1.089.516,42	1,089,516
Only for tax administration:				<u>192,863,614</u>
% of Ministry of Finance				99.44%
Population in 2021		Davies 2022		2,109,000
€/citizen in 2021				91.45
<hr/>				
Hamburg	Hamburg	Hamburg 2022		
Section 9.1 Financial Authority	Einzelplan 9.1 Finanzbehörde			469,706,732
consisting of the following components:				

components which not for tax administration:

Task area 279 "Senate assistance"	Aufgabenbereich 279 „Senatsassistenten“	p. 11		82,285,044
1st subcomponent			17.222.787,34	17,222,787
2nd subcomponent			47.419.811,93	47,419,812
3rd subcomponent			7.035.515,26	7,035,515
4th subcomponent			10.606.929,92	10,606,930

Task area 280 "real estate management"	Aufgabenbereich 280 „Immobilienmanagement“	p. 12		32,153,487
1st subcomponent			22.471.864,58	22,471,865
2nd subcomponent			2.841.338,66	2,841,339
3rd subcomponent			6.840.284,20	6,840,284

components which only for tax administration:

Task area 278 "Control and Service"	Aufgabenbereich 278 „Steuerung und Service“	p. 10	18.681.359,57	18,681,360
Task area 281 "Taxation"	Aufgabenbereich 281 „Steuerwesen“	p. 13		336,586,840
1st subcomponent			46.642.402,37	46,642,402
2nd subcomponent			269.018.124,47	269,018,124
3rd subcomponent			20.926.313,61	20,926,314

Only for tax administration:				<u>355,268,200</u>
% of Ministry of Finance				75.64%
Population in 2021		Davies 2022		1,854,000
€/citizen in 2021				191.62

Mecklenburg-Western Pomerania	Mecklenburg-Vorpommern	Mecklenburg-Vorpommern 2022		
Department of Treasury	05 Geschäftsbereich des Finanzministeriums	p. 7	245.899,8	245,899,800

of which not for tax administration:

State building and property offices	0505 Staatliche Bau- und Liegenschaftsämter	p. 7	33.189,0	33,189,000
State palaces, gardens and art collections	0506 Staatliche Schlösser, Gärten und Kunstsammlungen	p. 7		0
Measures of the MV protection fund	0580 Maßnahmen des MV-Schutzfonds	p. 7	--	0

Only for tax administration: 212,710,800

% of Ministry of Finance 86.50%

Population in 2021 Davies 2022 1,611,000

€/citizen in 2021 132.04

Saarland	Saarland	Saarland 2022		
Ministry of Finance and Europe / Ministry of Finance and Science	04 Ministerium für Finanzen und Europa / Ministerium der Finanzen und für Wissenschaft	p. 24	120.152.931,40	120,152,931

of which not for tax administration:

State Office for Central Services - Office for Construction and Real Estate	0412 Landesamt für Zentrale Dienste - Amt für Bau und Liegenschaften	p. 257	0,00	0
State Office for Central Services - Statistical Office	0413 Landesamt für Zentrale Dienste - Statistisches Amt	p. 259	7.328.100,00	7,328,100
Promotion of science and universities	0414 Förderung von Wissenschaft und Hochschulen	none		
University of Technology and Economics	0415 Hochschule für Technik und Wirtschaft	none		
University	0416 Universität	none		

of which only for tax administration:

Ministry of Finance and Science	0401 Ministerium der Finanzen und für Wissenschaft	p. 242	10.158.547,85	10,158,548
General permits	0402 Allgemeine Bewilligungen	p. 244	96.689,87	96,690
Tax offices	0404 Finanzämter	p. 250	89.923.982,49	89,923,982
State Office for Central Services	0411 Landesamt für Zentrale Dienste	p. 255	12.645.611,19	12,645,611

Only for tax administration:				<u>112,824,831</u>
% of Ministry of Finance				93.90%
Population in 2021		Davies 2022		982,000
€/citizen in 2021				114.89

Bremen	Bremen		Bremen 2022	
Finances	09 Finanzen	p. 76	3.557.533.200,41	3,557,533,200
<u>of which only for tax administration:</u>				
Office of the Senator for Treasury	0900 Behörde d. Sen. für Finanzen	p. 74	62.665.672,04	62,665,672
General authorizations for finances and personnel	0901 Allgemeine Bewilligungen für Finanzen und Personal	p. 74	61.351.045,58	61,351,046
Landeshauptkasse Bremen	0910 Landeshauptkasse Bremen	p. 74	9.051.494,60	9,051,495
Central education, training and further education	0922 Zentrale Aus-, Fort- und Weiterbildung	p. 74	18.517.238,66	18,517,239
Administrative School	0923 Verwaltungsschule	p. 74	1.253.454,86	1,253,455
Education and Training Center	0926 Aus- und Fortbildungszentrum	p. 74	5.615.298,24	5,615,298
College of Public Administration	0927 Hochschule für Öffentliche Verwaltung	p. 74	2.765.513,04	2,765,513
IT – Budget	0950 IT – Budget	p. 74	89.062.356,28	89,062,356
Bremen-Nord tax office (until April 30, 2017)	0954 Finanzamt Bremen-Nord (bis 30.04.2017)	p. 74	0,00	0

Tax Office Bremerhaven	0955 Finanzamt Bremerhaven	p. 75	11.068.398,52	11,068,399
Tax Office for External Audit Bremen	0957 Finanzamt für Außenprüfung Bremen	p. 75	8.340.176,18	8,340,176
Tax Office Bremen	0958 Finanzamt Bremen	p. 75	16.969.129,75	16,969,130
Taxes	0970 Steuern	p. 75	4.323.553,90	4,323,554
Only pure tax administrative costs:				290,983,332

neutral

Central budgeted personnel expenses	0990 Zentral veranschlagte Personalausgaben	p. 75	36.320.860,88	36,320,861
General	0995 Allgemeines	p. 76	10.366.535,93	10,366,536

Ratio pure-tax to (pure-tax & pure-non-tax): 8.29%

'Pure tax admin cost' + 'Ratio pure-tax to (pure-tax & pure-non-tax)' * 'neutral costs': 294,852,842
 % of "Finances" 8.29%

more:

0160 Finanzgericht	p. 43	987.618,90	987,619
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New total:		<u>295,840,461</u>
Population in 2021	Davies 2022	676,000
€/citizen in 2021		437.63

Federal and states' governments combined All (underlined values) above, totalling: **17,667,088,104**

Population in 2021	Davies 2022	<u>83,236,000</u>
€/citizen in 2021		<u>212.25</u>

About the Authors

Christopher Mantzaris studied economics and law with focus on taxation at the University of Applied Sciences for Public Administration Herrsching. He received his diploma by graduating from the Faculty of Finance. He worked as an auditor for the Bavarian government for five years. Mr. Mantzaris built up and runs several companies, including an investment firm. He is a doctoral student at the University of Primorska, Faculty of Management.

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Discussion Questions

1. What other methods of approaching total tax administrative costs can you think of and how would they compare with the method used in this article? What are each approach's advantages and disadvantages?
2. Would you consider the figure the article arrived at high or socially acceptable? Reason first from your initial, surface impression and then take other results and information into account.
3. How valuable is the percentage of total administrative costs in relation to tax revenue when assessing a tax system's efficiency? What other metrics would you take into consideration?

To Cite this Article

Mantzaris, C., & Fošner, A. (2024, Spring). Germany's tax revenue and its total administrative cost. *Journal of Multidisciplinary Research*, 16(1), 29–59.



Little Flower Church, Hollywood, Florida
2021

Photography by James Dwight Davis.

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Using a Self-Management Strategy to Reduce Smoking

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Abstract

According to the Center for Disease Control (CDC), approximately one-fifth of U.S. deaths are related to cigarette smoking. However, the CDC also reports that those who quit smoking before the age of 40 can reduce their risk of dying from a smoking-related disease by 90%. In this study, we used a multiple-baseline design across participants to demonstrate a self-management strategy to reduce smoking in three males aged 35–38 years. The results indicated smoking reduced after treatment. One participant quit smoking. Cognitive behavioral methods such as self-monitoring based on self-selected reinforcers can be used to decrease smoking behaviors in naturalistic settings. However, further research is needed to evaluate the sustainability of outcomes.

Keywords

smoking cessation; self-management; reinforcement; goal setting; descriptive assessment

Introduction

According to the Center for Disease Control (CDC) (2020), 20% of deaths in the United States are related to cigarette smoking, which reduces life expectancy by 10 years. Smoking has many direct and indirect impacts on health, including a greater prevalence of cancer and heart and lung diseases (Murray et al., 2022; World Health Organization [WHO], 2019), psychological disorders such as posttraumatic stress disorder (Jessup et al., 2012) and depression (Tjora et al., 2014), socioeconomic issues such as social stigma and isolation (Brown et al., 2015), and even a lifetime prevalence of intimate partner violence (Jessup et al., 2012). The CDC also reports that quitting smoking before the age of 40 reduces the risk of dying from a smoking-related disease by approximately 90%. Tobacco use is widespread among the Syrian population, with daily cigarette

smoking is most common, affecting 51.4% of men and 11.5% of women (Ward et al., 2006). However, to our knowledge, there are no Syrian smoking-related disease cases and annual deaths data. Additionally, the WHO (2019) reported 1.2 million premature second-hand smoking related deaths annually. The number of cigarettes smoked per day is related to increased disease risk among smokers (CDC, 2020), as well as those exposed to secondhand smoking (Hill et al., 1983; Kozlowski & Herling, 1988).

While daily smoking has been used to forecast abstinence in psychological and pharmacological research (Hall et al., 1984), it has not been able to foretell abstinence in other types of research (e.g., Fagerström, 1982). In their medical approach-based meta-analysis, Hackshaw et al. (2018) reported that smoking even one cigarette per day results in a roughly 40%–50% higher risk for developing health issues, such as coronary heart disease, whereas smoking 20 cigarettes per day increases the risk of stroke. Even though most smokers desire to quit smoking, approximately 10%–30% aspire to quit within 30 days (Carpenter et al., 2004; Etter et al., 1997; Piper et al., 2013). When smokers attempt to quit, they tend to use non-evidence-based treatment, and in the absence of evidence-based treatment, only 5% accomplish long-term abstinence (Hughes et al., 2004).

Even with evidence-based treatment (consisting of counseling and/or medication), only 10%–30% achieve long-term abstinence (Fiore et al., 2008). The urgent need to identify and develop effective smoking cessation treatments other than those currently available is imperative (Schlam & Baker, 2013). Researchers (Asfar et al., 2011) have found that compared with pharmacologic smoking-reduction interventions, evidence remains insufficient on the efficacy of behavior-based smoking-reduction treatments. However, it may be important to find non-pharmacologic alternatives to diversify the treatment options for smoking cessation.

Behavioral intervention methods such as fading (Foxy & Brown, 1979) and self-monitoring (Frederiksen et al., 1979) have been used to decrease smoking behaviors. Frekeriksen et al. (1979) recommended that, when using self-monitoring to decrease smoking, its intensity should be consistent from baseline to post-treatment, and it should be convenient to the smoker. Researchers found that self-monitoring has reactive effects on those recording their own or others' behaviors (Kazdin, 1974). This reactivity might be used to increase the salience of engaging in one behavior over another. Researchers have also found that performance-based reinforcements might be effective in smoking cessation. Roll et al. (1996) found that varying levels of monetary reinforcements affected participants' levels of smoking. They also determined that managing environmental variables helped participants abstain from smoking cigarettes. Several studies have confirmed that more innovative and intensive behavioral interventions are necessary (Dallery et al., 2007; Dunn et al., 2010; Sigmon et al., 2008).

Motivation is an important factor when undergoing cessation-related withdrawal (Schlam & Baker, 2013). Self-management (SM)—a strategy that uses motivational goal setting to influence behaviors (Cooper et al., 2014)—involves self-recording behaviors, interpreting the self-recorded data, adjusting behaviors accordingly, and applying the treatment (Cooper et al., 2014) or seeking professional help based on self-awareness (Epstein et al., 2008; McBain et al., 2015). Additionally, researchers (Dallery et al., 2008; Gine et al., 2010; Halpern et al., 2015; White et al., 2013) demonstrated that using SM in combination with deposit contracting is effective in promoting smoking cessation. Most of these procedures state that an initial monetary deposit can be reacquired based on smoking reduction and abstinence, and the results hint that deposit contracts are effective (Dallery et al., 2008). Behavior contracts are written agreements that outline expected behaviors during a defined duration; if participants succeed in maintaining their end of

the bargain, they earn reinforcements (Cooper et al., 2014). Jarvis and Dallery (2017) combined SM with behavioral contracts that required participants to record how many cigarettes they believed they had smoked as well as use a carbon monoxide (CO) measurement device to provide an accurate measurement. The study's findings suggested that some of the management strategies continued to exert effects during the follow-up measures (Jarvis & Dallery, 2017).

Foxx and Brown (1979) compared four treatment approaches to reduce cigarette smoking, namely: (a) a nicotine fading procedure; (b) a self-monitoring procedure, in which subjects plotted their daily intake of nicotine and tar; (c) a combined nicotine fading/self-monitoring procedure; and (d) a slightly modified American Cancer Society Program to stop smoking. The nicotine fading/self-monitoring treatment was the most successful according to the 18-month follow-up results. While behavioral interventions tend to be highly structured, SM might offer the flexibility of tailoring the protocol to fit the needs of individual smokers. This study's purpose was to evaluate a self-tailored smoking cessation program based on SM to decrease smoking behavior. In addition, it addressed the social significance of using participant-selected goals to reduce their overall level of smoking to less than four cigarettes per day.

Materials and Methods

Participants and Settings

Three Syrian males (names pseudonymized) participated in the study. The first participant, Name, a 38-year-old, began smoking at 14 years old, and smoked 25–30 cigarettes per day. The second participant, Patrick, a 35-year-old, began smoking 16 years old, and smoked 30–35 cigarettes per day. The third participant, Jonas, was a 36-year-old, who began smoking at 17 years old and smoked 20–25 cigarettes per day. Prior to the study, they completed a “Why do you Smoke?” survey (Table 1) (Axelrod, 1991; Health Letter Associates, 1991), and the Fagerström Test for Nicotine Dependence (Table 2) (Fagerström, 1982). The survey results indicated that Name smoked from habit and had a physiological dependence on nicotine, which made it difficult to abstain from smoking in prohibited locations (e.g., church, library, office). In addition, he smoked most of the day, and even while he was ill and in bed. Patrick smoked for stimulation and the pleasure of handling a cigarette, whereas Jonas sought relaxation through smoking.

Table 1

Why do you Smoke? Survey

True or False: I smoke

1. because I light up automatically and don't know I'm doing it.
2. because it's relaxing.
3. because I like handling cigarettes, matches, and lighters.
4. to help deal with anger.
5. to keep from slowing down.
6. because it's unbearable not to.
7. because I enjoy watching the smoke as I exhale it.
8. to take my mind off my troubles.
9. because I really enjoy it.
10. because I feel uncomfortable without a cigarette in my hand.
11. to give myself a lift.
12. without planning to—it's just part of my routine.

Note: "True" responses to items 5 and 11 indicate that you smoke for stimulation; to items 3 and 7, that the pleasure of handling a cigarette is important; to items 2 and 9, that you seek relaxation; to items 4 and 8, that you need a tension-reducing crutch; to items 6 and 10, that you have a physiological addiction; to items 1 and 12, that you smoke from habit. No doubt, you smoke for a combination of these reasons.

Table 2
Items and Scoring for the Fagerström Test for Nicotine Dependence (FTND)

Questions	Answer	Points
How soon after you wake up do you smoke your first cigarette?	Within 5 minutes	3
	6–30 min.	2
	31–60 min.	1
	After 60 min.	0
Do you find it difficult to refrain from smoking in places where it is forbidden (e.g., in church, at the library, in a cinema)?	Yes	1
	No	0
Which cigarettes would you hate most to give up?	The first one in the morning	1
	All others	0
How many cigarettes/day do you smoke?	10 or less	0
	11–20	1
	21–30	2
	31 or more	3
Do you smoke more frequently during the first hours after waking than during the rest of the day?	Yes	1
	No	0
Do you smoke if you are so ill that you are in bed most of the day?	Yes	1
	No	0

Compliance with Ethical Standards

All study-related activities were conducted at the participants' homes and in the community. Study procedures met ethical standards of the institutional research committee at Damascus University, as well as with the 1964 Helsinki Declaration and its later amendments or comparable ethical standards. Participants received a study protocol and provided written consent. We concealed participants' names, thus assuring their integrity, and they could withdraw their participation at will. We also considered data protection. As a useful security measure, we employed pseudonymization to reduce the ability to link a dataset to an individual's original identity.

Dependent Variables and Interobserver Agreement

The two dependent variables in this study included the following: (1) the number of cigarettes smoked per day, which the participants self-recorded, along with their location at the time of smoking cigarettes (e.g., bar, balcony, street), through notations in a smartphone notes application; and (2) level of Carboxyhemoglobin (COHb)—hemoglobin that combines with CO.

While normal COHb levels for non-smokers is <1.5%, cigarette smokers' COHb levels range from 3%–5% (Light et al., 2007). We measured COHb in a hospital laboratory via blood samples, immediately after baseline and after the last treatment condition. Brener et al. (2003) indicated that self-reported data are accurate when individuals “understand the questions and when there is a strong sense of anonymity and little fear of reprisal” (p. 449). Self-reporting methods are socially valid and reliable, and may be a significant path to understand and convey the science behind collecting data.

To assess interobserver agreement (IOA), a second observer (e.g., wife, husband) who was present with the participants throughout the day recorded the number of cigarettes smoked. IOA was assessed three times during baseline, and twice a week during the intervention. The researcher calculated IOA by dividing the lower score by the higher score, and multiplying by 100. The resulting quotient was 100%.

Experimental Design

The multiple-baseline design across participants consisted of the following four phases: baseline, intervention, follow-up, and return to baseline. The procedures lasted for 40 consecutive days. The SM program lasted three weeks, with a follow up one week after its last day.

Baseline

During baseline, participants recorded for a week the number of cigarettes they smoked daily. The baseline—which began on a Saturday, with the last daily cigarette count being recorded on Friday—included two components: (a) SM and self-evaluation, and (b) descriptive assessment.

SM and self-evaluation: In the SM and self-evaluation conditions, based on Dunlap et al. (1995), the following seven steps were included: (a) defined a target behavior—that is, smoking a cigarette; (b) recorded its frequency; (c) established a recording period, during which the number of cigarettes smoked were recorded every 2 h; (d) used a smart phone audible timer to prompt recordings every 2 h, and reset the timer once data were recorded; (e) asked participants to choose a putative reinforcer (Loftin et al., 2005) to increase their motivation to use self-monitoring and aim for a positive behavior change (e.g., praise from best friend or partner); (f) involved participants' partners for IOA assistance, to ensure that they were recording accurately (Webber et al., 1993), with random spot-checks to ensure higher-quality self-recording data; and (g) when behavioral goals were met, self-monitoring procedures were faded; this ensured self-monitoring was sustainable over time and that smoking reduction continued (Loftin et al., 2005; Rafferty, 2010). Fading strategies included monitoring less frequently (e.g., on randomly selected days, reducing from a daily monitoring schedule to monitoring twice a week). Finally, we assessed COHb the day before treatment.

Descriptive assessment: We conducted a descriptive self-assessment to provide contextual information about when and where smoking occurred, and derive a function of smoking. Participants also described why they smoked, and could choose a reinforcement schedule. They used the note feature on their smart phones, through which they described the antecedents and consequences to smoking. Next, we transcribed the audio recording to a recording sheet (Table 3).

Table 3
Sample Smoking Recording Sheet

Date	Time	A			B	C		
		S _D	AO	EO		R ⁺	R ⁻	P

In the Antecedent (A) category, they described the activities and specific events preceding the behavior. The events included the following: discriminative stimuli (e.g., seeing a pack of cigarettes), establishing operations (e.g., a coffee break, time lapse from the last smoked cigarette), and abolishing operations (e.g., out of breath after playing football [i.e., soccer]). In the Behavior category, they described what the behavior looked like (e.g., smoking, avoiding smoking). Finally, in the Consequence category, they described the event that followed the behavior: a positive reinforcer (e.g., going out for dinner, access to cigarettes), negative reinforcer (e.g., removal or avoidance of negative comments about cigarette smoking smell), or punisher (e.g., children asking why he smokes, breathing difficulty while playing football). We also audio recorded different cigarette smoking events and analyzed across the treatment conditions for each participant.

Intervention: Self-management Program

We conducted an SM program across three weeks to change behavioral patterns. The participants had already started to self-record their smoking behavior, but the data self-recording, by itself, did not change their behavior. When the behavioral SM program started, self-monitoring procedures were faded, so that self-monitoring was sustainable over time, and smoking reduction continued (Loftin et al., 2005; Rafferty, 2010). Fading strategies included monitoring less frequently (e.g., on randomly selected days, reducing from a daily monitoring schedule to monitoring twice a week). The SM program included two components: (a) goal setting and (b) self-administered consequences.

Goal setting: Participants used a differential reinforcement of diminishing rates (DRD) schedule to reduce the number of cigarettes smoked per day. We set weekly goals based on what each participant agreed to at the beginning of the study. The predetermined goal-setting schedule was 9±1, 4±1, and 1±1 cigarettes for weeks 1, 2, and 3, respectively. Participants selected which cigarettes they would abstain from daily (e.g., cigarette after waking up, after the morning coffee break, after dinner). We compared the final measurement for the week, which we recorded on Sunday, with the range that the participants’ specific goals for that week set to determine whether they had entered reinforcements while achieving their goals.

Self-administered consequences: The participants identified putative reinforcers for not smoking and meeting their goals. We delivered these reinforcers according to the DRD schedule; for instance, they were applied when the participants smoked less than 10 cigarettes in the first self-management condition. If each of the participants met their daily criterion across the week, their reinforcements were as follows: Name accessed a cigarette, Patrick chose weekend dinners at a nice restaurant, and Jonas selected watching movies with his family over the weekend.

Follow-up

We collected data the next week after the last day of the self-management program.

Return to Baseline

In this phase, the procedures were identical to baseline procedures. We collected data two weeks after the last day of the self-management program.

SM Fidelity

SM fidelity data involved the following: (a) pre-intervention training on the SM manual with the first author, (b) assessment by a trained independent observer of the accuracy of participants' performance, and (c) provision of individual feedback once a week. SM fidelity data collected treatment data for 43% of the baseline sessions and 67%, 47%, and 53% of intervention and maintenance sessions for Name, Patrick, and Jonas, respectively. SM fidelity was 100% for the participants across all phases of the study.

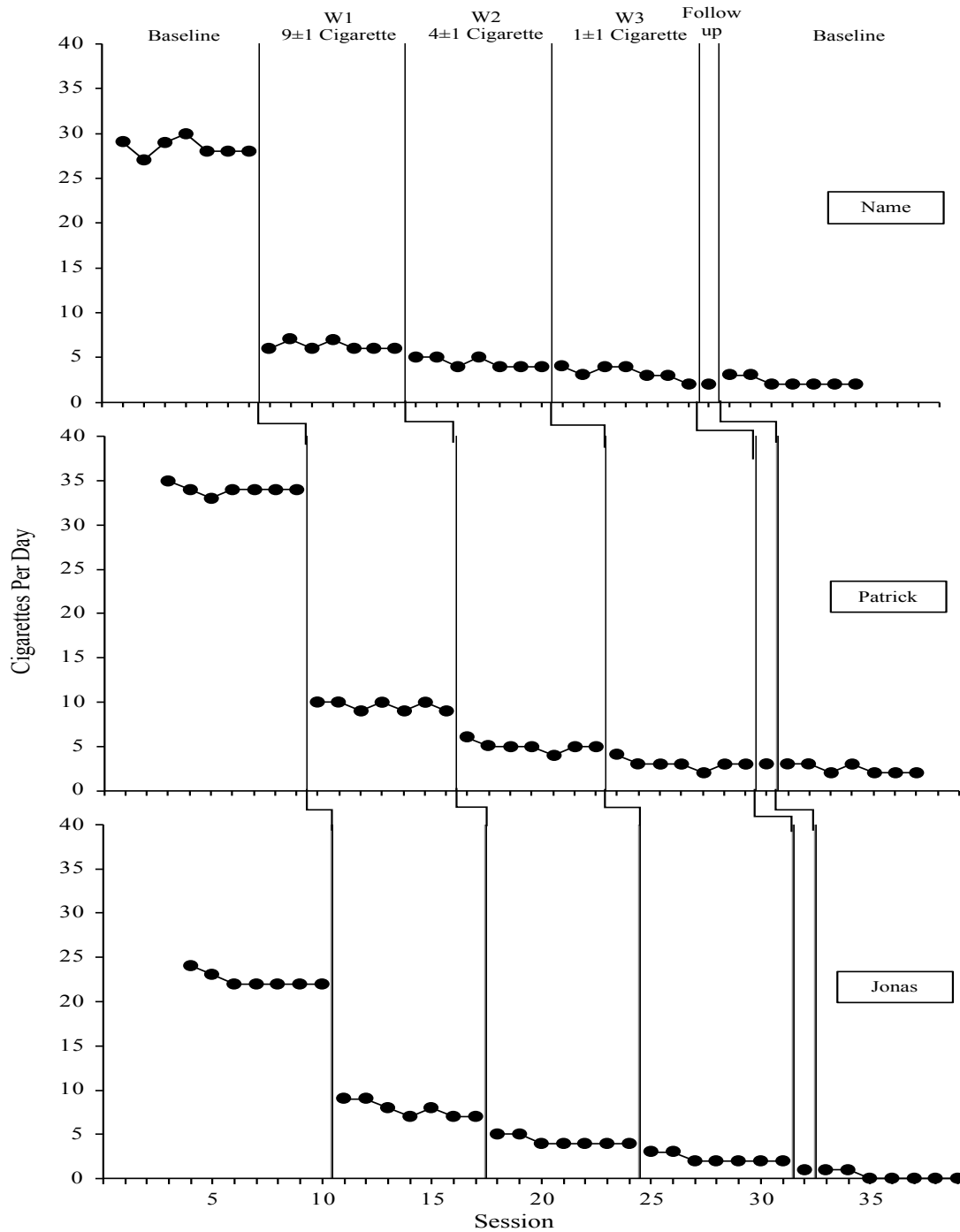
Social Validity

Participants' program acceptance evaluated based on their completing an open-ended social validity questionnaire. They responded as to whether: (a) they were satisfied with the results, (b) the program produced socially important outcomes, (c) the intervention was effective, and (d) they felt that the program was socially acceptable.

Results and Discussion

As shown in Figure 1, during baseline, the mean number of cigarettes smoked daily by Name, Patrick, and Jonas were 28, 33, and 23, respectively. Once we implemented the SM program, the participants' mean number of cigarettes across the weeks in the SM program reduced as follows: [Name's] to 6, 77.8% (9±1 condition), 4, 85.2% (4±1 condition), and 3, 88.1% (1±1 condition); Patrick's to 9, 71.9% (9±1 condition), 5, 84.4% (4±1 condition), and 3, 91.7% (1±1 condition); and Jonas's to 8, 66.8% (9±1 condition), 4, 82.7% (4±1 condition), and 2, 92.4% (1±1 condition). During the one-week follow-up probe, Name smoked 3 cigarettes, Patrick 3 cigarettes, and Jonas 1 cigarette. Once we introduced the SM, there was a decreasing trend of cigarettes smoked, with a 79% reduction in the mean number of cigarettes smoked per day for all three participants. Name's and Patrick's COHb reduced from 8% prior to intervention to 4%, while Jonas's COHb reduced from 7% prior to intervention to 2%. Finally, in the return to baseline, the mean number of cigarettes Name and Patrick smoked were 2 and 3 cigarettes, respectively, whereas Jonas smoked none (i.e., he quit smoking). Name was on a continuous schedule of reinforcement, whereas Patrick and Jonas were on a progressive schedule of reinforcement, which appeared to be more effective based on a visual analysis (Figure 1). Though Patrick and Jonas were on progressive schedules of reinforcement, Patrick continued to smoke, albeit fewer cigarettes, whereas Jonas quit. One possible explanation for this finding is that Jonas's reinforcers for quitting were more potent (e.g., family, health) than merely smoking, while Patrick's competing reinforcer was not as potent as smoking. In addition, our findings suggest that participants' reasons for smoking influence their cessation of smoking. For example, if smoking is considered relaxing, smokers might find it easier to quit, rather than when smoking from habit or out of physical nicotine dependence.

Figure 1
Number of Cigarettes Smoked per Day



The findings are promising considering that the intervention relied on self-monitoring. The self-monitoring component afforded participants the flexibility to provide one measurement per day, at any time they chose. The researcher recommended that participants record their data about the same time each day for consistency, but we did not track this in the current study. All three

participants met their decreased smoking level goals for four consecutive weeks as their behavioral contracts required. One difference between Name and the other two participants was the two schedules of reinforcement we used in this study: Name used a continuous schedule of reinforcement, while Patrick and Jonas used progressive schedules of reinforcement.

When responding to the social significance of the survey, Name indicated, “reduction in smoking is socially important not only for me, but for the whole family. I know that as a father, it is annoying to present a negative paradigm to my children.” Patrick reported that he had extreme anxiety when he thought about quitting, but the procedures allowed him to reduce his smoking greatly. Although it might seem counterintuitive to allow cigarettes to be reinforcers when the goal is to decrease smoking, all three participants reported that it helped them feel less anxious. Name reported, “I do not need to be nervous because I could have access to a cigarette somehow.” When we asked Jonas about the effectiveness of the procedures, he reported that the procedures were “very effective and acceptable, especially with gradually reducing the number of cigarettes, and delaying the reward.” Name also reported easier breathing when playing football or running. Finally, the participants said that when we were conducting the study, they would encourage their friends who smoked to try the procedure. This study provides a possible solution for improving the health not only of smokers but also of their loved ones, whose health might be compromised by secondhand smoke.

Like Axelrod’s (1991) recommendation for those who are physiologically addicted to smoking, Name set a date to quit smoking. He gradually reduced the number of cigarettes he smoked by a few each day, and then quit entirely. He experienced some encouraging effects within four weeks of reducing cigarette smoking by implementing self-management. The evidence from Axelrod’s and the current research suggest that self-tailored self-management programs may be a viable option to help those who have a desire to quit smoking without using psychotherapeutic medications.

Our results are like Jarvis et al. (2017), who suggested that behavioral contracts might be adequate to ensure short-term reductions in smoking with no cost to the participants, compared with psychotherapeutic medications, which may cause adverse effects (Baker et al., 2016). However, these results differed from studies that suggest using psychotherapeutic medications to reduce smoking (Asfar et al., 2011).

One strength of this study is that we distributed no monetary reinforcers; rather, we employed self-selected reinforcers, common to adult populations (e.g., going out for dinner, spending time with the family). Additionally, in these types of studies, treatment fidelity could provide greater confidence in the study’s results.

Despite encouraging results, future studies should avoid our study’s limitations. First, our study did not include daily measures of CO values, or monitor whether the reduced CO values were sustained after the study. Second, it did not expand the sample size through more rigorous selection/exclusion criteria. Third, its duration was not long enough to evaluate long-term adherence to SM, and other confounding factors in SM adherence that are of a socioeconomic or health-related nature. These factors could influence the outcomes of the SM program.

Conclusions

Behavioral intervention methods such as self-monitoring may be used to decrease smoking behavior. One strength of this study is that we distributed no monetary reinforcers, but rather, we used self-selected reinforcers, common to adult populations (e.g., going out for dinner, spending time with the family). While some have considered SM to be a fundamental method in the medical approach to decrease hospital readmission (van der Wal et al., 2010) and improve functioning and independence (Höllriegel et al., 2016), our findings suggest that effective self-management based on self-selected reinforcers may be used to decrease smoking behaviors in naturalistic settings. In the future, researchers should continue to evaluate, with more participants, whether the sustained effects of the behavioral strategies in the long term are as considerable as the short-term reductions in smoking found in the current study. While it appears that self-management led to reduced smoking, it may be important for future research to demonstrate whether a more parsimonious treatment could be used.

Funding: This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Authors' contributions: All authors contributed to the study design and material preparation. WM collected and analyzed data. DS added additional narrative and revised the first draft of the manuscript. All authors commented on previous versions of the manuscript and read and approved the final manuscript.

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Discussion Questions

1. Describe the health benefits of quitting smoking.
2. Describe the intervention the participants used to stop smoking.
3. How do you apply intervention and results of this study to your practice and/or personally?

To Cite this Article

Mounzer, W., & Stenhoff, D. M. (2024, Spring). Using a self-management strategy to reduce smoking. *Journal of Multidisciplinary Research*, 16(1), 61–75.



Temple Kol Ami Emanu-El, Plantation, Florida
2024

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Correlates and Predictors of Alcohol-related Unintentional Injury in Collegiate Athletes

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Abstract

The purpose of this study was to determine alcohol-related unintentional injury (ARUI) prevalence as well as the associated correlates and predictors in a nationally representative sample of collegiate athletes. We utilized a cross-sectional secondary data analysis of undergraduate varsity and club sport athletes who drank alcohol at least once in their lifetime from the spring 2018 American College Health Association–National College Health Assessment II survey data (N = 8,715). Including the main outcome variable of ARUI, we examined both individual-level and institutional-level indicators in relation to report of ARUI prevalence in the past 12 months. The ARUI prevalence was 15.1%. The strongest predictors of having had an ARUI in the past year were alcohol use in past 30 days; heavy episodic drinking (HED); not utilizing protective behaviors when drinking; high level of stress in the past year; intentionally injuring oneself; and seriously considered suicide when drinking. Identifying the correlates and predictors of ARUI in college athletes will support education and intervention to reduce high-risk alcohol consumption and associated consequences, like ARUI.

Keywords

collegiate athlete, alcohol, alcohol-related unintentional injury

Introduction

Studies have repeatedly and consistently found that collegiate athletes engage in more high-risk alcohol consumption compared to non-athletes. Therefore, collegiate athletes remain a high-risk population for alcohol consumption and the associated negative alcohol-related consequences (Martens et al., 2006; Kwan et al., 2012; Zamboanga et al., 2021). Among these known alcohol-related consequences is alcohol-related unintentional injury (ARUI). ARUI has been identified as a regular consequence of heavy episodic drinking (HED) behavior by college students, resulting in an estimated 599,000 ARUIs every year (Hingson, Zha, & Weitzman, 2009). Heavy episodic drinking (HED) is commonly accepted as 5+ alcohol drinks in the past 2 weeks. ARUI should be considered a more problematic alcohol-related consequence among collegiate student athletes as there are serious potential impacts on a collegiate athlete's sport-specific performance and career (Brenner, Metz, & Enriken, 2014; Parisi et al., 2019).

Overall, the range for 12-month prevalence of ARUI in a student-athlete population seems to fall between 7% and 21%. Specifically, the National Collegiate Athletic Association has conducted a few nation-wide surveys measuring student-athlete substance use and found the 12-month prevalence of ARUI to be 15.3% in 2009; 7.4% in 2013; and more recently 6.8% in 2017. A few older studies identified the 12-month prevalence to be higher than 15%, but the most recent study (Parisi et al., 2019) found 12.9% of student-athletes had experienced an ARUI during the previous year. Only one study has examined the lifetime prevalence of ARUI in student-athletes to be nearly 18% in a sample of 1,421 student-athletes (Brenner, Metz, & Enriken, 2014).

Despite the prevalence, seriousness, and significance of ARUI in collegiate athletes, no previous studies have examined the multi-level risk factors associated with the odds of reporting ARUI in collegiate athletes. The purpose of the study is (1) to determine the prevalence of ARUI in a national collegiate athlete population and (2) to determine correlates and predictors of ARUI in the past 12 months. This research study used the spring 2018 American College Health Association's National College Health Assessment II survey (ACHA-NCHA II), Silver Spring, MD: American College Health Association to answer the research questions within a large, national collegiate athlete population.

Methods

A cross-sectional secondary data analysis from the spring 2018 ACHA-NCHA II survey was conducted on full-time undergraduate varsity or club collegiate student-athletes who drank at least once in their lifetime. The total reference group for the spring 2018 ACHA-NCHA-II was 88,178 total participants. Within this population, 14.5% reported either varsity (6.5%) or club (8.0%) sport participation (ACHA, 2018). For this analysis, we included any participants who reported alcohol use once in their lifetime, were either varsity or club sport athletes, and undergraduates enrolled full-time at a 4-year institution (n = 8,715). Each of the institutions included in this analysis were responsible for obtaining informed consent and Institutional Review Board (IRB) approval. Additionally, the researchers were granted IRB approval for this secondary data analysis study at their home institution.

We examined both individual-level and institutional-level indicators in relation to report of ARUI prevalence in past 12 months. The main outcome variable was ARUI status in last 12 months (1 or more vs. 0 times). The demographics consisted of gender, sexual orientation, age, race/ethnicity, residence, membership in fraternity or sorority, year in school, relationship status, and work status. Alcohol use variables included alcohol use in past 30 days, number of drinks last time partied, and number of times had 5+ drinks of alcohol at a sitting in last 2 weeks. Other substance use indicators asked about marijuana, cigarette, e-cigarette, and illegal drug use in past 30 days. Alcohol use-related risk behaviors at a party in last 12 months included: stick with one kind of alcohol, use designated driver, pace drinks to one or fewer drinks per hour, avoid drinking games, stay with friends, let friend know when had enough, track number of drinks, determine in advance to not exceed a set number of drinks, eat before/during, choose not to drink, and alternate non-alcoholic and alcoholic drinks.

Mental health and other wellness explanatory variables were also included. Diagnosed/treated conditions in last 12 months included anxiety, obsessive compulsive disorder, panic attacks, phobia, depression, bipolar disorder, insomnia, other sleep disorder, ADHD, bulimia, anorexia, substance addiction, non-substance addiction, or other mental health condition. Students reported level of stress and ever feeling in past 12 months overwhelming anxiety, very sad, very lonely, exhausted, overwhelmed, so depressed difficult to function, seriously considered suicide (with and without drinking), and attempted suicide. Sleep indicators in the last 7 days consisted of sleepiness, awakened too early and could not get back to sleep, felt tired/dragged out/sleepy, felt rested, gone to bed because they could not stay awake or had an extremely hard time falling asleep.

Four institutional variables measured campus size, locale size, geographic region of country, and public-private status. Descriptive statistics assessed sample characteristics and the prevalence of reporting 1 or more ARUIs in past 12 months. A logistic regression was conducted to determine which individual- and institutional-level variables were associated with the increased odds of reporting one or more ARUIs in the past 12 months. We computed adjusted odds ratios (aOR) with 95% confidence intervals (CI). The Hosmer-Lemeshow goodness-of-fit statistic indicated a good logistic regression model fit given the non-significant $p = .857$. The logistic regression analysis included 63 percent (5,453 out of 8,715) of our sample due to complete outcome and independent variable data.

Results

Of the total sample of full-time undergraduate collegiate athletes at a 4-year institution who drank at least once in their lifetime ($n = 8,715$), over half were female (63%), non-Hispanic White (72%), straight/heterosexual (84%), aged 17-20y (63%), lived in a residence hall (56%), and were not in a relationship (55%). Forty-four percent did not work for pay and the majority were not in a fraternity/sorority (89%). Over half attended a university that was public (55%), with a campus size less than 10,000 (61%), and in a locale with a population between 10,000-249,999 (65%).

In the past 12 months, 15.1% ($n=1,312$) of collegiate athletes reported experiencing at least one ARUI. The reported ARUI in full-time undergraduate non-athletes using the same selection criteria was 11.7% in the past 12 months. In past 30 days, two-thirds of the sample reported alcohol use 1-9 days (67%) with 15% reporting use on 10-30 days. At the last time partied or socialized, 43% had 5+ more drinks of alcohol. Thirty-four percent had 5+ drinks at a single sitting 1-2 times in the last two weeks while 13% did so 3+ times. Approximately 3% ($n=300$) seriously considered

suicide in last 12 months when drinking. Additionally, 46% never used marijuana with 25% who used but not in past 30 days, while 79% never used cigarettes and 73% never used e-cigarettes. Only 6% noted use of 1+ illegal drugs in the past 30 days.

We conducted a logistic regression to determine individual and institutional factors which increased the odds of reporting one or more ARUIs in the past 12 months (Table 1). The model was statistically significant accounting for 24% of ARUI variability, $\chi^2 (df = 135) = 837.24, p < .001$; *Nagelkerke* $R^2 = 0.240$. After controlling for covariates, collegiate athletes reporting at least one ARUI in the past year (vs. those not reporting an ARUI) were slightly more likely to be female (vs. male) and lesbian/gay (vs. straight) and were less likely to be working 20+ hours a week and be in a relationship but not living together.

Table 1

Odds of 1+ Alcohol-related Unintentional Injuries (ARUI) in the Last 12 Months in Full-Time Undergraduate Collegiate Athletes (n = 5,453 with Complete Data)

Variables	<i>B</i>	<i>SE</i>	<i>Wald</i>	<i>p</i>	<i>aOR</i>	<i>95%CI</i>
<u>Demographics</u>						
Gender identity						
Female (ref)	--	--	--	--	--	--
Male	-0.22	0.10	5.03	.025*	0.80	0.66-0.97
Gender queer	-0.20	0.62	0.10	.746	0.82	0.24-2.75
Sexual orientation						
Heterosexual or straight (ref)	--	--	--	--	--	--
Homosexual, lesbian or gay	0.56	0.23	6.16	.013*	1.75	1.12-2.72
Bisexual, pansexual, or queer	-0.03	0.15	0.05	.826	0.97	0.71-1.31
Other sexual orientation or asexual	-0.30	0.28	1.12	.289	0.74	0.43-1.29
Relationship status						
Not in a relationship (ref)	--	--	--	--	--	--
In a relationship but not living together	-0.33	0.09	13.86	<.001*	0.72	0.61-0.86
In a relationship and living together	-0.32	0.22	2.18	.140	0.72	0.47-1.11
No. of hours worked for pay						
0 (ref)	--	--	--	--	--	--
1–19	-0.10	0.09	1.48	.224	0.90	0.75-1.07
20–39	-0.36	0.17	4.42	.035*	0.69	0.49-0.98
40+	-1.06	0.53	3.97	.046*	0.35	0.12-0.98
<u>Substance Use in Last 30 Days</u>						
Marijuana use						

Never used (ref)	--	--	--	--	--	--
Have used but not in past 30 days	0.38	0.11	11.70	<.001*	1.46	1.18-1.82
Used 1–9	0.30	0.12	6.56	.010*	1.35	1.07-1.70
Used 10–30	0.41	0.15	7.05	.008*	1.50	1.11-2.03
<u>Cigarette use</u>						
Never used (ref)	--	--	--	--	--	--
Have used but not in past 30 days	0.33	0.12	7.29	.007*	1.39	1.09-1.76
Used 1–9	0.14	0.15	0.80	.370	1.14	0.85-1.54
Used 10–30	-0.10	0.34	0.09	.765	0.90	0.47-1.75
<u>Use of 1+ Illegal drugs</u>						
Never used or not in last 30 days (ref)	--	--	--	--	--	--
Yes	0.35	0.15	5.86	.015*	1.43	1.07-1.90
<u>Alcohol Use</u>						
<u>Alcohol use in past 30 days</u>						
Have used but not in past 30 days (ref)	--	--	--	--	--	--
Used 1–9	0.72	0.23	9.67	.002*	2.05	1.31-3.23
Used 10–30	1.00	0.25	15.51	<.001*	2.71	1.65-4.46
<u>No. of times had 5+ drinks of alcohol at a sitting in last 2 weeks</u>						
0 (ref)	--	--	--	--	--	--
1-2	0.41	0.12	11.45	<.001*	1.50	1.19-1.91
3-4	0.76	0.16	21.85	<.001*	2.13	1.55-2.92
5+	1.17	0.21	30.46	<.001*	3.23	2.13-4.91
<u>Alcohol Use-Related Risk Behaviors at a Party in the Last 12 months</u>						
<u>Stick with one kind of alcohol</u>						
Never (ref)	--	--	--	--	--	--
Rarely or sometimes	-0.25	0.21	1.43	.232	0.78	0.51-1.18
Most of the time or always	-0.55	0.22	6.23	.013*	0.57	0.37-0.89
<u>Use a designated driver</u>						
Never (ref)	--	--	--	--	--	--
Rarely or sometimes	-0.68	0.25	7.43	.006*	0.50	0.31-0.82
Most of the time or always	-0.46	0.22	4.57	.032*	0.63	0.41-0.96
<u>Pace drinks to ≤1 drinks per hour</u>						

Never (ref)	--	--	--	--	--	--
Rarely or sometimes	-0.17	0.10	2.57	.109	0.84	0.69-1.04
Most of the time or always	-0.85	0.18	22.37	<.001*	0.43	0.30-0.61
Avoid drinking games						
Never (ref)	--	--	--	--	--	--
Rarely or sometimes	-0.16	0.10	2.52	.113	0.85	0.70-1.04
Most of the time or always	-0.42	0.16	7.33	.007*	0.65	0.48-0.89
<u>Mental Health & Wellness in Last</u>						
<u>12 months</u>						
Anxiety						
No (ref)	--	--	--	--	--	--
Diagnosed but not treated	0.43	0.22	3.90	.048*	1.54	1.01-2.37
Diagnosed and treated	0.19	0.18	1.14	.285	1.21	0.85-1.73
Obsessive Compulsive Disorder						
No (ref)	--	--	--	--	--	--
Diagnosed but not treated	0.80	0.34	5.54	.019*	2.23	1.14-4.36
Diagnosed and treated	-0.16	0.38	0.18	.675	0.85	0.41-1.79
Bipolar Disorder						
No (ref)	--	--	--	--	--	--
Diagnosed but not treated	-0.54	0.63	0.75	.386	0.58	0.17-1.99
Diagnosed and treated	-1.15	0.56	4.16	.041*	0.32	0.11-0.96
Level of stress						
No stress (ref)	--	--	--	--	--	--
Less than average or average stress	1.33	0.61	4.79	.029*	3.78	1.15-12.43
More than average or tremendous stress	1.53	0.61	6.28	.012*	4.62	1.40-15.31
Days felt rested in past week						
0-1 (ref)	--	--	--	--	--	--
2-5	0.54	0.20	7.35	.007*	1.72	1.16-2.55
6-7	0.48	0.22	4.72	.030*	1.61	1.05-2.47
Ever felt things were hopeless						
No, never or not in last 12 mo. (ref)	--	--	--	--	--	--
Yes, in the last 12 mo.	0.23	0.11	4.33	.037*	1.26	1.01-1.57
Ever intentionally cut, burned, bruised, or injured yourself						
No, never or not in last 12 mo. (ref)	--	--	--	--	--	--

Yes, in the last 12 mo. Ever felt overwhelming anger	0.68	0.15	19.43	<.001*	1.97	1.46-2.67
No, never or not in last 12 mo. (ref)	--	--	--	--	--	--
Yes, in the last 12 mo. When drinking, seriously considered suicide	0.25	0.10	6.20	.012*	1.28	1.05-1.55
No, never or not in last 12 mo. (ref)	--	--	--	--	--	--
Yes, in the last 12 mo.	0.75	0.24	9.67	.002*	2.12	1.32-3.39
<u>Institutional Factors</u>						
Institution status						
Public (ref)	--	--	--	--	--	--
Private	-0.29	0.13	5.26	.022*	0.75	0.59-0.96
Locale/City size						
≥500,000 (ref)	--	--	--	--	--	--
250,000–499,999	-0.03	0.21	0.02	.898	0.97	0.64-1.47
50,000–249,999	-0.11	0.16	0.46	.498	0.90	0.66-1.22
10,000–49,999	-0.37	0.16	5.17	.023*	0.69	0.50-0.95
2,500–9,999	-0.11	0.19	0.34	.560	0.90	0.62-1.30
<2,500	-2.31	1.06	4.72	.030*	0.10	0.01-0.80

Model Fit: $\chi^2 (df = 135) = 837.24, p < .001$; Nagelkerke $R^2 = 0.242$. NOTE: Only statistically significant variables included in table. Individual- and institutional-level covariates were controlled for in the model.

In general, the odds of an ARUI were higher for those who used alcohol, marijuana, and illegal drugs in the last 30 days. A dose response relationship was found for frequent alcohol use in the last month [aOR_(1-9d vs. not in past 30d) = 2.05, 95%CI 1.31-3.23; aOR_(10-30d vs. not in past 30d) = 2.71, 95%CI 1.65-4.46] and number of times had 5+ drinks at a sitting in last 2 weeks [aOR_(1-2 vs. 0) = 1.50, 95%CI 1.19-1.91; aOR_(3-4 vs. 0) = 2.13, 95%CI 1.55-2.92; aOR_(5+ vs. 0) = 3.23, 95%CI 2.13-4.91]. The lack of protective behaviors at parties in last year also increased the risk of ARUI and these included frequent participation in drinking games, not pacing drinks to one per hour, not using a designated driver, and mixing different kinds of alcohol, $p < .05$.

The odds of reporting ARUI was associated with mental health and wellness variables. As compared to those who were not diagnosed, those who were diagnosed but not treated with anxiety or obsessive-compulsive disorder were more likely to experience an ARUI. Those who were diagnosed and treated for bipolar disorder experienced protection. A dose response association was found between perceived level of stress in past 12 months and ARUI, aOR_(less than average or average vs. no stress) = 3.78, 95%CI 1.15-12.43; aOR_(more than average or tremendous vs. no stress) = 4.62, 95%CI 1.40-

15.31]. An increased odds of ARUI was associated with feeling hopeless, overwhelming anger, and felt rested. Notably, intentionally cut/burned/bruised/injured self in past 12 months was associated with suffering an ARUI. Additionally, ARUI odds doubled for both those who intentionally cut/burned/bruised/injured self in past 12 months, $aOR_{(yes\ vs.\ no\ or\ not\ in\ last\ 12\ mo.)} = 1.97$, 95%CI 1.46-2.67, and for those who seriously considered suicide when drinking, $aOR_{(yes\ vs.\ no\ or\ not\ in\ last\ 12\ mo.)} = 2.12$, 95%CI 1.32-3.39.

Two institutional-level factors were statistically significant. Collegiate athletes attending a private vs. public university were less likely to have an ARUI, $aOR_{(private\ vs.\ public.)} = 0.75$, 95%CI 0.59-0.96. ARUI odds decreased for those attending a university whose locale had the smallest vs. largest population, $aOR = 0.10$, 95%CI 0.01-0.80. See Table 1 for all significant correlates of ARUI with odds ratios for this collegiate athlete sample.

Discussion

We utilized a national sample of undergraduate collegiate athletes to determine the correlates and predictors of ARUI, a unique contribution to the scientific research. The calculated prevalence of ARUI within a large sample was 15% of collegiate athletes reporting at least one ARUI in the past year. This percentage is quite similar to Parisi et al. (2019) that found ARUI prevalence to be 12.9% in a student athlete sample. The undergraduate non-athlete ARUI prevalence was 11.7%. The prevalence and risk of ARUI, including how it can impact one's current and future sport participation, must be included in prevention education for collegiate athletes and athletic personnel (Chow et al., 2019; Parisi et al., 2019).

Many of the significant variables in this study seem to be appropriate predictors for ARUI. There were greater odds of having an ARUI for those who used alcohol, marijuana, and illegal drugs in last 30 days. Also, there was a dose response relationship found for frequent alcohol use in the past month as well as HED (5+ drinks at a sitting in past 2 weeks). Collegiate athletes who suffered an ARUI were more likely to have reported frequent participation in drinking games, not pacing drinks to one per hour, not using a designated driver, and mixing different kinds of alcohol. The inclusion of protective health behaviors when drinking seems to be of critical importance to a prevention education intervention for collegiate athletes, but also for coaches, athletic trainers, and other athletic department staff (Chow et al., 2019; Parisi et al., 2019).

A number of mental health and wellness variables were associated with increased odds of reporting an ARUI. Those who were diagnosed, but not treated with anxiety or obsessive-compulsive disorder were more likely to experience an ARUI. This is in contrast with those who were diagnosed and treated for bipolar disorder experienced protection from having reported an ARUI. A dose response association was found between perceived level of stress in past 12 months and ARUI. Increased odds of ARUI were associated with feeling hopeless, overwhelming anger, and feeling rested. Notably, intentionally cut/burned/bruised/injured self in past 12 months was also predictive of ARUI. The odds of an ARUI doubled for both those who intentionally cut/burned/bruised/injured self in the past 12 months, and for those who seriously considered suicide when drinking. The obligation to identify and refer collegiate athletes for counseling services may not only be critical for their mental health needs, but also for the health risks associated with excessive alcohol use and the related negative consequences, like ARUI (Daltry, Mehr, & Keenan, 2021).

Screening collegiate athletes for mental health and substance abuse indicators may provide significant opportunity for intervention and referral, as well as harm reduction (Brenner et al., 2014; Daltry, Mehr, & Keenan, 2021). There seems to be strong support for educating and training collegiate coaches, athletic trainers, and other athletic personnel in the areas of prevention, identification/screening, and referral for student athletes who may be at risk for ARUI, as well as the associated predictors and correlates (Brenner, Metz, & Entriiken, 2014; Chow et al., 2019; Daltry, Mehr, & Keenan, 2021; Nolt, Sachs, & Brenner, 2013; Parisi et al., 2019). A limitation of this study is the results were not aggregated by gender and type of sport, which could influence the selection of relevant interventions for individual teams, especially when the research suggests that collegiate athletes who drink alcohol are not homogeneous regarding HED and the negative consequences (Zamboanga et al., 2021).

The opinions, findings, and conclusions presented/reported in this article are those of the author(s) and are in no way meant to represent the corporate opinions, views, or policies of the American College Health Association (ACHA). ACHA does not warrant nor assume any liability or responsibility for the accuracy, completeness, or usefulness of any information presented in this article.

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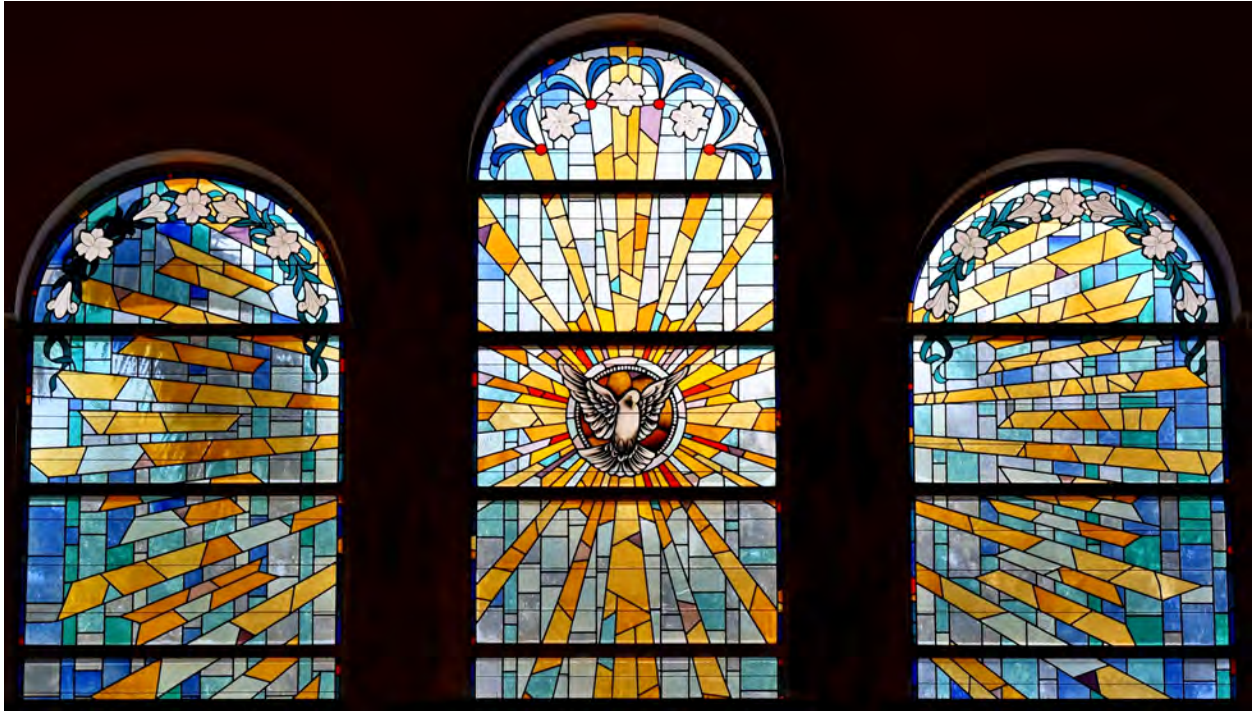
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Discussion Questions

1. What do collegiate coaches, athletic trainers, and athletics department personnel need to know to better prevent Alcohol-related Unintentional Injury (ARUI) in collegiate athletes?
2. What types of protective health behaviors can student-athletes employ to reduce harm from excessive alcohol consumption?
3. How can colleges and universities increase opportunities for screening, intervention, and referral for student-athletes suffering with mental health and substance abuse concerns?

To Cite this Article

Brenner, J. W., Metz, S. M., Hofmann, D. M., & Ashbaugh, C. M. (2024, Spring). Correlates and predictors of alcohol-related unintentional injury in collegiate athletes. *Journal of Multidisciplinary Research*, 16(1), 77–87.



Our Lady of Lourdes Catholic Church, Miami, Florida
2019

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Nontraditional Strategies to Find and Retain STEM Faculty in Higher Education

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Abstract

Finding faculty for the STEM disciplines has become increasingly difficult. Industry salaries are higher than ever. This has resulted in significant growth in undergraduate programs without corresponding growth in graduate programs and an increasing interest in graduate degree recipients choosing industry over academia. Finding faculty will require looking in previously overlooked places and new techniques to help them adjust to academic life. Places to consider include alumni working in industry and industry partners looking to give back. This creates unique challenges for helping these non-traditional academics adjust to academic life, but they too can be overcome.

Keywords

STEM, hiring faculty, retaining faculty, higher education

Introduction

STEM disciplines in general, and Computer Science specifically, have received a large amount of attention in recent years. Careers in these fields are in high demand and graduates frequently earn well above average starting salaries. This additional specialized training focus and success after graduation from higher education institution (HEI) has resulted in significant HEI enrollment growth. Computer and Information Sciences degrees conferred grew over 11% from school year 2017/18 to 2018/19 continuing a yearly trend of between 7.5% and 11.5% growth for an average annual compound growth rate of 8.35% (Bachelor's degrees conferred by postsecondary institutions, by field of study: Selected years, 1970-71 through 2018-19, 2020) in the 2010s decade.

Unfortunately, this growth has created unique challenges for HEIs with finding qualified faculty. The number of doctoral degrees conferred yearly during the same period has only grown a 3.8% average annual compound growth rate (Doctor's degrees conferred by postsecondary institutions, by field of study: Selected years, 1970-71 through 2018-19, 2020). The highlight is that Masters' degrees have grown faster than those with Bachelors' degrees with an average annual

compound growth rate of 9.9% (Doctor's degrees conferred by postsecondary institutions, by field of study: Selected years, 1970-71 through 2018-19, 2020). The author's experience is that most of these advanced degrees are not awarded to individuals interested in faculty positions, which leads to an increasing challenge in filling full-time, part-time, and adjunct faculty positions. Wills (2022) shows an overall success rate of 76% in faculty searches which is heavily influenced by what he labels Ph.D. 100 (Ph.D. granting institutions in the top 100 of U.S. News Rankings of Graduate schools). Wills' (2022) data drops to just above 50% for non-Ph.D. granting institutions. Shelly (2022) notes this with her observations from several community colleges who are facing challenges with replacing retiring faculty. It would not be a leap to presume part of the success of Ph.D. 100 institutions is a willingness to leverage foreign talent (requiring sponsorship) that is less present in smaller institutions resulting in their failed searches.

Reversal of these faculty and class trends requires attracting people to faculty positions who are not coming from the traditional Masters–Ph.D. pipeline. You can find these future faculty members in industry, but they will not come to you; you need to reach out to them. Many have an interest in giving back and sharing what they have learned but do not know how to go about it, are not sure it is really an option, or have other concerns you need to help them address.

Prospecting for New Faculty

The traditional way of posting openings in academic journals and on a school's website likely will not work for attracting industry professionals. If this mode were successful, there would already be a pipeline for faculty recruits. Instead, HEIs need to reach out to them. Luckily, there are many qualified members who would like to teach but have never considered it. One strategy for prospecting for finding faculty candidates is to reach out to alumni. The ideal alumnus profile coming into a faculty position could be someone with 15–20 years of experience and a graduate degree. This graduate degree qualifies them to teach as well as gets them during mid-career when they are still heavily involved in the technologies and skills desirous for teaching.

Using an alumni base has the benefit of not only getting people who are somewhat familiar with your program (depending on how much it has evolved as technology has changed) but also finding faculty with an instant emotional and loyal bond to your school. The Institutional Advancement–Alumni department may not be willing or able to provide assistance in this, but you can always use this as a partnership opportunity to find more out about alumni and determine who they can ask for gifts as an enticement. One could consider starting with an introductory email in which mutual information sharing can begin to establish a relationship. From the responses, you should be able to create a pool of people with whom to have further conversations.

Another is to meet industry professionals. There are lots of professionals who have worked very hard to become experts in their area of the field and would like to share what they have learned. Like the alumnus, you are looking for industry professionals with 15–20 years of experience. This is where your career center can help you meet companies that already see the value in your program and are likely to want to help you make it better. This is most likely going to be conversations in which you ask about their businesses and what they are looking for from your graduates and then steer the conversation to partnering on academic programs.

Faculty Credentialing

The challenge with recruitment is the credentialing of these potential faculty. Those with a Master's degree or sufficient graduate course work in the discipline meet the threshold you likely have always used. However, that requirement can exclude a large pool of potential faculty who can be excellent educators. Interestingly, the ABET (formerly the Accreditation Board for Engineering and Technology, Inc.) criterion does not explicitly call for this. Instead, the 2022–2023 Criteria for Accrediting Engineering Programs call for the following.

The overall competence of the faculty may be judged by such factors as education, diversity of backgrounds, engineering experience, teaching effectiveness and experience, ability to communicate, enthusiasm for developing more effective programs, level of scholarship, participation in professional societies, and licensure as Professional Engineers. (Criteria for Accrediting Engineering Programs, 2022)

The ABET criteria for Accrediting Computing Programs state something similar. This opens up the possibility of someone with less than 18 graduate hours but other well regarded professional credentials such as Project Management Professional (PMP) to teach a project management class or Cisco certification for a networking class. You also can have them co-teach with one of your faculty such that they are not the instructor of record but still provide a significant portion of instruction in a supervised way.

A third recruit pool option is high school teachers who are teaching advanced placement (AP) and “Dual Credit” (i.e., college credit during high school years) courses. HEIs likely already have a relationship with them for teaching your Dual Credit courses. These teachers likely will not want to transition from their current school but may be willing to teach a late afternoon or evening course. While these teachers are least likely to be taking your upper-level classes, that can work well since they have the most relevant experience teaching students in those introductory classes as that is their main job (how much of a difference is there in a 17-year-old dual credit high school student and an 18-year-old college first-year student?). Additionally, they can help (indirectly) recruit some of their best high school students for your program. As a bonus for them, teaching at the university level likely will be seen as prestigious to their principal.

Transition to Academia/On Boarding – Adjunct

Once hired, these new faculty members need to be onboarded. The degree to which this is successfully handled can influence whether the faculty member enjoys all the benefits of academia or quickly returns to the comfort of industry. The onboarding process will be different depending on if the faculty member's status is adjunct or full-time.

Adjuncts have the least commitment to a program as they may be teaching only one class at one time. However, if you onboard them correctly, you have a class or two that are reliably taught every semester by a professor that improves the prestige of your program, students really enjoy learning from, and makes your life easier. Adjuncts usually will be teaching in a course they have direct experience with, such as a software engineer teaching a programming class or a project manager teaching the project management class.

New adjunct faculty have deep technical knowledge but may not have experience teaching and likely will need help finding the best way to impart their knowledge onto students. If this is a course that has been taught previously, handing them as much of the materials from the previous course offering as possible helps them with an ordering of how to present the material as well as knowing how much depth to go into those topics. To integrate them and reduce the workload on the supervising faculty during the semester, they should be encouraged to take ownership of the course and make it their own with the guardrails of what needs to be accomplished and what students need to take away. This is a good opportunity to sit down with them and review and update the material that may be outdated in areas that quickly evolve such as web technologies or medicine.

Additionally, these new faculty members may have prior experience working with junior colleagues and training stakeholders but be unlikely to know all the intricacies of running a classroom. Providing a mentor to be on call to help with uncommon situations that always seem to popup, like a student medical issue or getting ahead/behind in material, provides them with a level of comfort to know they are supported and increases the likelihood of them returning in future semesters (both from their and the department's perspective). This mentor should plan on attending a lecture (with advanced notice) as well as reviewing the syllabus to help everyone feel comfortable. After the adjunct has successfully taught a couple of classes, they should have "graduated" into not needing this additional support but make sure they still have a way to ask someone how to handle those rare situations that may occur.

Once adjunct faculty have been successfully onboarded, one should keep in mind that they are doing a favor to you, not the other way around. Yes, they are being paid, but most technical fields pay enough that their compensation from an HEI does not compare to what they could make consulting (easily \$150 or more per hour). A typical 16-week, 3 credit hour course could easily take over 150 hours of time to prepare, teach, grade, and respond to student questions outside of class and possibly much more for a faculty member teaching their first class. That would mean any course paying less than \$22,500 is undervaluing them, compared to typical industry rates. The HEI leadership must remain flexible with them as their primary career may require them to travel or work long hours on occasion. This may mean they need to teach a class or two remotely, which should be less disruptive after what we all went through during the pandemic. They may need to switch which night(s) they teach from one semester to another, which may cause a problem with your scheduling but if finding a replacement to teach the class was easy, you probably would not be reading this. All that said, you still need to make sure your class's learning objectives are being met.

Transition to Academia – Full-Time Faculty

Full-time faculty have made the highest commitment to your program. They have given up what is likely a higher paying job to join your department (anecdotally, I hear common numbers of around 40%-50% pay reduction). You need to help them feel like they made the right choice, rather than start considering those offers from recruiters they likely are receiving.

It goes without saying that academia is different from industry. Those faculty from industry are bringing something valuable that someone who has never been in industry does not have. At the same time, the things that make you successful in industry are not the same as what makes you successful in academia, so your faculty may need help adjusting, and you should try to meet them in the middle.

In industry (especially technical roles), successful projects are the measuring stick much like publications and grants are in academia. You have asked someone to join you who likely has a track record of success in industry, so how do you recognize their prior achievements when they do not have publications or grants? Without recognizing those achievements, you are basically asking them to start over from scratch (similar to a newly minted Ph.D. or, even worse, if they did not publish as part of their Master's–Ph.D.). It could be very difficult for them to swallow being told that their multimillion-dollar project that resulted in tens or hundreds of millions of dollars in revenue and impacted tens of thousands of people in industry is less important than a publication in a minor journal that received one citation. This becomes “front and center” when it comes to promotion and tenure. After taking a pay cut of 20% (or most likely much more), how can HEIs show commitment to them? Everyone should fully agree that creating and disseminating knowledge are the most important duties of a professor. Most schools use the publications of a professor as a “measuring stick” to knowledge creation with citations to measure quality. Likewise, they use course evaluations to measure dissemination of knowledge, even while arguing that measurement is filled with flaws like low response rates and students using it to retaliate for low grades caused by their insufficient efforts. How does this relate to a new faculty who came from industry?

Two questions you should consider include the following: (1) How do we count prior experiences from a faculty member from industry equitably, compared to how we would when evaluating a faculty member who joined the department mid-career who has worked only in academia; and (2) How do we help the new faculty member from industry start publishing and receiving grants when that faculty member has little to no prior experience doing these? You could handle the first question in multiple ways including evaluating their career and creating a translation from industry success to academic success (like a 100,000-dollar project equals a publication in a minor journal with one citation whereas a multi-million-dollar project equals a publication in a major journal with five citations). This suggestion likely will be contentious, so make sure you include multiple stakeholders in these discussions. Ideally, this would be done prior to the faculty member starting but, more likely, will be an ongoing discussion well after the person's first semester.

The second question has a less contentious solution. Have your new faculty member partner with one of your successful researchers on their research. The closer their interests lie, the better the mentorship will go but, the intent is to help them see what academic research, publication, and grant processes look like by experiencing it with someone who has a track record of success. Ideally, the new faculty should meaningfully participate in the research, publication, and grant application processes, which will help them get that first publication under their belt.

Areas for Future Consideration

While this article looks at the current state of academic hiring for STEM, there are several trends we did not explore. The addition of (A)rts and after that (R)eadings to convert STEM into STEAM then into STREAM is intended to fill gaps. Arts, a shortening for liberal arts to fit an acronym and includes the humanities, aims to fill gaps in communicating ideas through artistic expression, whether it be the detailed drawing of flower or bird found in the naturalist's guidebook of yesteryear or discussing the ethics of a success or even failure of a particular experiment. Reading, a similar acronym convenient term for reading and writing, and speech is intended to

promote critical thinking, creativity, and greater communication skills. How these additional skills fit into the faculty for traditional STEM majors needs further examination.

Another option might be to create partnerships with employers where faculty work part time in industry and part time in academia and students are brought along as interns and coops. The model of internships and co-operative education for students has a rich history, but the idea of doing the same with faculty has been limited to apprenticeship programs and faculty entrepreneurs trying to create companies with their research. This model, while not without challenges, could produce outstanding results that really helps differentiate the HEIs that use it.

Conclusion

The strategies that have worked in the past are not working any more (except for the “Ph.D. 100” institutions), but all is not lost. Your field is still highly desirable as both increasing enrollments and the high salaries your graduates are receiving indicate. The challenges you are facing in filling your faculty positions can be overcome with a little creativity and outside the box thinking.

Industry practitioners can provide a valuable source of untapped, high-quality talent for your faculty ranks. These people, new to the other side of the desk in academia, bring with them unique challenges. However, they are not insurmountable. Given the difficulties in hiring that is so common in STEM, they may be the best – or even only – way to successfully staff your department.

Acknowledgement

Prepared with contributions from John D. Rudnick, Jr., Ed.D., Visiting Professor, Graduate Healthcare Program Director, Gus Machado College of Business, St. Thomas University, Miami, Florida.

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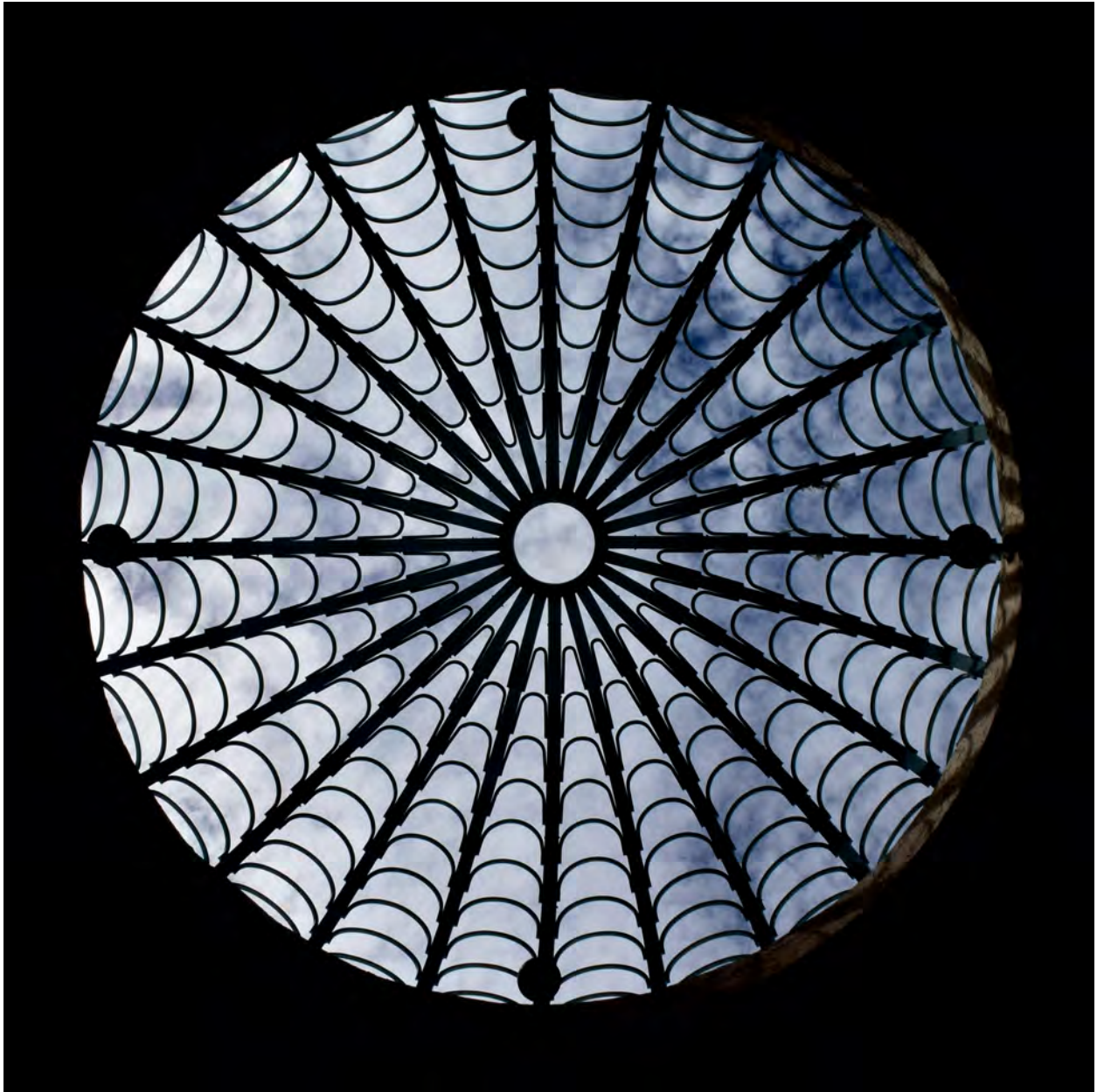
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Discussion Questions

1. What sources of potential faculty members could you consider for your institution beyond the traditional job postings on your institution's website and academic publications?
2. What additional support will new faculty members need to successfully acclimate to your institution if they have spent much of their career not in higher education?
3. How can you use these faculty members from industry and other sources to help differentiate your programs?

To Cite this Article

Zimmer, C. J. (2024, Spring). Nontraditional strategies to find and retain STEM faculty in higher education. *Journal of Multidisciplinary Research*, 16(1), 89–95.



Shul of Bal Harbor, Miami Beach, Florida
2024

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Deanna's Delights, Inc.: Data Analytics in the Audit of the Procurement Cycle

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Abstract

Auditing has increasingly focused on data analysis techniques to examine large data sets. This now occurs in all three phases of a financial statement audit: planning, testing and gathering evidence, and final review. Many audit activities use limited or cleaned data and guide students through routine data analytics processes. This case presents students at various levels of mastery of data analytics, suitable for an introduction to the concept and for more experienced students. It introduces the concepts of auditing and internal control processes to introduce them to the need for critical thinking and problem-solving. Students are given a complex case and determine their own testing procedures. They then perform those tests on the data to learn the value and limitations of data analytics in audit risk assessment.

Keywords

audit evidence, data analytics, analytical procedures, risk assessment

Case Information and Implementation

Overview

This case serves as an in-class activity or an outside of the classroom exercise. Students do not need to have completed an audit course prior to completing the activity. However, the case presumes that students understand intermediate accounting concepts as well as risk assessment and internal control concepts.

Faculty or students can complete the data analysis using a number of different programs based on their preference or competence. Most of the solutions provide reference to functions or techniques in Excel. However, this is to guide the instructor to the general type of analysis required. The case is suitable for use with students having a wide range of prior experience with data analytics and related software. The technology used can be as simple as Excel pivot tables for less experienced students. It can also be Power BI, Tableau, Alteryx, or other more sophisticated data analysis software for advanced students.

While instructors can assign the case to students individually, using this as a team assignment is generally more beneficial. This allows the students to discuss data analysis strategies and interpretation of the testing results. Using teams also provides an opportunity for audit brainstorming regarding fraud or other risks in the case. Implementation guidance will presume instructors assign the case to student teams. However, implementation for individual assignments requires minimal adjustment.

Instructors may introduce the case as part of a lecture on these topics or use it to assess the students' mastery of the concepts. Instructors should assign students to teams prior to disseminating the Student Case Materials. One key aspect of this case is that each team can focus on a different concern based upon their own risk assessment and brainstorming. By having a data set covering much of the non-inventory procurement cycle, students can choose to focus on a variety of accounts and transactions.

The assignment includes three basic steps: a preliminary risk assessment and fraud brainstorming step, a data analysis step, and a final step to assess the impact of testing findings on the remainder of the audit. Instructors should assign the first step with enough time for students to read the case and complete their brainstorming prior to working with the data.

In-Class Use

For use of the case as an in-class activity, instructors should provide students with the Student Case Materials in Appendix A at least one class period prior to use in the classroom with the data set to allow completion of Step 1. The more time between introduction of the case and data analysis in the classroom, the higher the expectation can be regarding team brainstorming of risks and means to assess them. Also, the delay between introducing the case materials and the activity allows more time to ensure all students have access to and understanding of the technology that they will use to evaluate the data set.

On the day when students will use the data set in class (Step 2), they should sit together in their teams for discussion purposes. Ideally, instructors can allocate teams in a way that limits the possibility of overhearing other teams. However, the variety of areas to explore within the data set make it unlikely that multiple groups are assessing the same risks using identical means. You can provide the data set through your LMS or links to a faculty or class web page. Instructors should

use password or time-access restrictions to ensure that all teams have the same access to the data. At the conclusion of the class or activity time, teams should take time to complete Step 3 and evaluate the analysis they have completed in light of the concerns initially raised in the case materials. The instructor can either use the questions in the case as discussion topics or require a written response. The case asks four questions:

1. What specific aspects of the cycle did you choose for testing?
2. What made those aspects most relevant or in need of testing?
3. What specific tests did you perform on the data and what was the goal of the tests?
4. What are your findings and what conclusions have you drawn regarding additional substantive testing needed in this area?

Outside-Class Use

For use as an outside assignment, instructors should provide the Student Case Materials first, even delaying the release of the data set until students complete Step 1 and plan their strategies. Instructors should encourage teams to brainstorm risk and testing ideas before they gain access to the data set. Instructors may require teams to submit a written planning document or use other methods to assess that students focus on addressing specific audit objectives rather than simply “playing” with the data. Once instructors are satisfied that teams have planned their testing sufficiently, they can provide the data set for Step 2 as with in-class use. Teams should have enough time to complete testing and evaluate results, forming conclusions about the need for additional testing. As with in-class use, instructors may assign Step 3 as a written risk assessment memo or use other means to ensure that teams have completed this last step.

Materials Provided

The case materials present a narrative of the company and its procedures entitled Student Case Material. This narrative enables students to conceptualize the data and assess risk and internal controls prior to working with the data. The case materials provide enough detail for students to understand the overall firm operations as well as the specifics of the non-inventory procurement cycle.

The case also includes a data file in Excel. This file provides several data sets for use in planning and performing the testing:

1. A complete three-year trial balance of Deanna’s Delights,
2. A monthly budget of the non-procurement expense accounts for the current year,
3. A list of vendors with vendor codes, names and addresses,
4. A list of Accounts Payable employees with employee ID numbers, names and addresses,
5. A transaction set for the current year with over 1,200 entries, including vendor codes, invoice numbers, processing and payment dates, expense accounts, and employee ID for both processing and approving the transactions.

The individual worksheets provide a means of creating relationships for more sophisticated data analysis. The transaction set has enough information to link to vendor and employee data. Depending on the experience and competence of the students working with the data, joining the data may be completed by the instructor prior to using the case or by the students as part of the activity. For simple Excel analysis, =XLOOKUP functions can be used. For Power BI, Tableau, or other software, the tables can be related by unique identifiers.

Regardless of the method of implementing the case, instructors can discuss the general background of the case as explained in the Teaching Notes to help students focus on the overall audit risks, prior to diving into the data set. It is helpful for students to have an understanding of overall risk assessments and more specific control risks within the procurement cycle.

Teaching Notes

This case is an extension of a previous teaching case called *The Impossible Interview* (Souza et al., 2021). The same fictional company is used, however the focus that case was testing through client inquiry as opposed to data analytics of expense accounts as here.

Case Learning Objectives

The objectives of this case focus on introducing students to the complexities of audit risk assessment and data analytics. The data set, in conjunction with the Student Case Materials, provide students with a more realistic setting to learn the importance and difficulty of developing effective analytical procedures for planning and assessment. While audit firms are continually increasing their use of technology and data analytics, this has caused some concerns for the skills and preparedness of the staff working with them. The American Institute of Certified Public Accountants (AICPA) considers data analytic skills essential to the profession and has included them in the CPA exam (2023). Integrating data analytics into the classroom has become a priority for the AICPA (2022), accrediting bodies (Association to Advance Collegiate Schools of Business – AACSB, 2022), and academia (Falgout et al., 2024; Xu, Liu, & Krahel, 2024; Losi, Isaacson, & Boyle, 2022).

This case provides students the opportunity to develop data analytics skills in a setting that encourages them to think critically about the problem. It is recommended that instructors provide some materials related to the development of an analytics mindset or approach to help students structure their approach to the case. EY (2021) provides a model that focuses on (1) asking meaningful questions; (2) extracting, transferring, and loading relevant data; (3) applying appropriate data techniques; and (4) interpreting and sharing the results.

Upon completion of the case, students should be able to:

1. Identify factors indicating a high risk of material misstatement.
2. Identify fraud risk factors in a financial statement audit.
3. Brainstorm with teammates regarding risks or material misstatement and fraud in an audit and appropriate steps to take to address those risks.
4. Understand the complexities of using client data for analysis.
5. Analyze information from multiple sources for consistency or confirmation.
6. Discuss the implication of audit findings for the remainder of the audit.

This case allows students to work together to evaluate an intentionally high-risk case. It provides an opportunity for students to learn for themselves the difficulties of identifying relevant audit objectives and testing data to address those objectives sufficiently. Finally, the case prompts students to consider the impact of fraud risk on a financial statement audit.

General Background of Deanna's Delights, Inc.

Deanna's Delights, Inc. (DDI) is a fictional non-issuer company headquartered in the Philadelphia area and founded in 2010. The company offers full-service bakery items, baking equipment sales, and baking classes. It has four locations along with a headquarters/warehouse location. It has reached the \$10,000,000 net sales mark for the first time. However, the growth has led to problems with cost management and timely budgeting. As a result, cash flows are not up to expectations but client staff have not had time to determine the causes.

Students are assigned to an "audit team" of DDI's audit firm, Braun, Ellis, Garibaldi (BEG). BEG is a regional accounting firm focusing on privately held companies. The case addresses the concerns of the DDI staff regarding the lower-than-expected cash flows. Students are informed that other audit team members are evaluating the possibility of misstatements, fraud, or simple cost inefficiencies in the sales, inventory and payroll areas. The students are expected to focus on the non-inventory procurement cycle to consider control weaknesses and unexpected expense variations. The data set provides a sufficiently large number of transactions for students to focus on overall trends or specific expense areas.

In addition to the data set, the Student Case Materials provide background on the organization of DDI, descriptions of procedures in the procurement cycle, and a partial trial balance with budget and actual balances. Teams should be able to use the case material to develop a preliminary risk assessment that will guide their data analysis.

Case Solutions

The data set includes over 1,200 transactions covering 38 expense accounts. All invoices are for the current year; however, some payments are not made until the following year. While the list below of items embedded in the data is extensive, students may find other concerns or issues as well. To assist instructor review, a spreadsheet with the embedded exceptions is provided.

Preliminary Risk Assessment

The Student Case Materials contain enough background for students to identify several potential risks within the non-inventory procurement cycle. Note DDI has received the invoices for goods and services that the data set focuses on. Therefore, although they may identify risks in the initial ordering process, they will not be able to test those risks with the data set presented. While students may consider any number of risks within the cycle, those risks that can be tested include the following:

1. Fictitious or unapproved vendors – these can be tested by reviewing the Vendor List to ensure that all approvals are by Steve Weimer or Deanna Long. Students can also verify that the *Miscellaneous* vendor is only used for approved transactions.
2. Unapproved or unauthorized transactions – students can test for incorrect or missing approvals on the Transaction List by noting the authority level of the AP employee that approved the transaction. They can also test that no AP employees are being paid through this system as Payroll should handle employee reimbursements.
3. Inadequate segregation of duties – students can test that transactions are processed and approved by different AP employees on the Transaction List.
4. Missing or duplicate transactions – students can verify that the Transaction List is complete by reviewing the unique Payment IDs. They can also test for duplicate payments or payments recorded out of sequence with the Transaction List.
5. Insufficient cash management – students can test the due dates of payments and any discounts available to ensure the timely payment of vendors by matching payment terms on the Vendor List to payments on the Transaction List. They can also verify that payments are only made on one of the two weekly payment runs.
6. Incorrect classification of expenses – since DDI has two distinct classification policies, students can verify both that the *Miscellaneous* vendor is only used for approved transaction amounts and that the Repair and Maintenance account is only used for approved invoice amounts. The information is available on the Transaction List.

Again, with the complexity of the data set and case materials, students may consider other controls to test beyond this list. Some of those risks may be testable. For those that are not, students could be encouraged to consider how to test them and include that information in their Summary Risk Assessment memo for Part 3 of the case.

Initial Transaction Testing

Prior to any control testing, the students should determine tolerable exception rates for the various tests. As this case provides the complete population to be evaluated, sampling methods and projections are not required. However, students should still have an idea of what will constitute an acceptable level of exceptions for the controls. Comparing the actual exception rates to the tolerable rates should be part of their concluding risk assessment task. The Transaction List data set is initially sorted by invoice date. However, students should re-sort the data to look for specific processing concerns.

Completeness of Payment Data and Existence of Expenses

Students should perform initial reasonableness checks to ensure that there are no missing payments or duplicate payments. There are no gaps in the payment numbers, and all payments are in chronological order, ranging from PMT_45210 to PMT_46420. As such, there appears to be little risk the data set is incomplete. However, students should verify this for themselves prior to performing other tests. The payment numbers are in a text field, so gap testing will require extracting the number portion (such as with a =RIGHT() function in Excel) in order to easily search for missing numbers.

Five duplicate payments (with the same vendor, invoice number, and amount) were processed by different AP staff members. Students can find these on the Transaction List using filters or pivot tables for vendors (in Excel or Power BI) or use similar processes in other programs. Company policy is to spoil the invoices upon payment and require supporting documentation of delivery to prevent duplicates, which should have prevented this. While the exception rate is only 0.41%, it does raise concerns about the consistent application of controls and the risks of poor cash management.

Some students may note that there are 10 AP employees, counting the manager and two assistant managers, for only 1,211 annual transactions. While it is true the staff processes additional payments for inventory and other items, the department is still overstaffed by most reasonable measures. This may have contributed to these exceptions. Some students may consider the overstaffing to be a control weakness instead of merely a matter of inefficiency.

Classification of Payments

The company has two specific policies regarding the classification of payments in the data set. The first is the requirement that any use of a miscellaneous vendor is for amounts under \$1,000 and not for recurring items. None of the payments to the miscellaneous vendors violate the classification requirements. Students should verify this by filtering the data on the Miscellaneous vendor (VND_009999) and reviewing the transactions. Note that most of the transactions for these vendors are classified as Other Miscellaneous Expenses (Account 6609). Students may try to verify this control by looking at the account, not the vendor. However, there are several payments to miscellaneous vendors for other expenses and several entries to Other Miscellaneous Expenses from regular vendors. As the control is that payments to the **vendors** cannot exceed \$1,000, testing the **account** is insufficient.

The second classification policy is that any items expensed as Repairs and Maintenance Expense be for amounts under \$1,000. Here, students should focus on the **account** more than the **vendors** as with the previous policy. Testing here will note that two transactions classified as Repairs and Maintenance Expense (Account 630x) are over the capitalization threshold. Both of these transactions were reviewed and approved. Again, the transaction exception rate is less than 0.5%, which students may view as tolerable. The dollar misstatement is \$12,637 of the \$238,348 total of the Repairs and Maintenance Expense, a greater than 5% overstatement of the account balance.

However, there are an additional 13 **pairs** of transactions that appear to circumvent this control. In each case, two invoices to the same vendor for work at the same location are dated within 3 days of each other. Each invoice in the pair is below the \$1,000 limit. However, taken together, each pair exceeds the limit. Students who sort or filter the data by location/vendor or vendor/date may notice this pattern and recommend additional testing. Counting all of these as exceptions increases the exception rate to 3.7% and the dollar misstatement of the accounts to \$30,305 (approximately 13% of the account balance). More seriously, these appear to be intentional violations of the controls as opposed to simple errors. In evaluating the control weaknesses, students should note this difference. It is important to note to students that this anomaly cannot be considered an exception yet. Further testing that examines the actual invoices is required to determine whether these are intentional violations or merely coincidences.

Control Testing

The Student Case Materials describe several specific control activities related to the data set. Students may have selected some or all of the following items to test. Note that students will need to discern whether an item is really a potential control weakness or merely an inefficiency in the AP system.

Proper Vendor Approval

All vendors must be approved by either Steve Weimer or Deanna Long prior to use by DDI. Students can verify that all vendors were appropriately approved by reviewing the Vendor List for the name of the approver. The timeliness of the approval requires students to match the vendor approval date with the earliest invoice from that vendor. This can be completed with a =XLOOKUP() in Excel to bring the approval date into the Transaction List or with a JOIN in Power BI and other relational software. By doing this, students will find that all vendors have been properly and timely approved, with no exceptions.

Proper Authorizations

All invoices must be approved for payment prior to being paid. This approval varies by the dollar amounts involved. The approval limits are included in the employee data set. There are no exceptions where an invoice was approved by someone not authorized to approve it. Students should verify this by filtering the data on transaction amount. As the authority to approve the transaction is based on the invoice amount, it is the *amount* not the approver that determines whether the control has been followed. Students that filter, or otherwise test, based on *approver* will find that each manager approved invoices ranging from under \$100 to their respective limits, providing indirect evidence the control worked effectively.

By filtering on amount, students will gather direct evidence of the control effectiveness. All 29 transactions over \$10,000 were approved for payment by Ben Farmer. (There were no transactions over \$100,000.) All 45 transactions between \$5,000 and \$10,000 were approved by either Ben Farmer or Charlotte Rodriguez, the Assistant AP Manager. The remaining transactions were approved by Livia Garcia or one of the others as per policy.

Appropriate Segregation of Duties

As a general personnel control, authorizing vendors is separated from authorizing transactions. Payments are made on approval of Steven Weimer, who has no transaction processing authority in AP. Reconciliations are performed by Mr. Weimer, based on payments made by AP staff. Prior tests of vendor and transaction approvals are described above.

One area not yet tested is the segregation of transaction approval from transaction processing. The AP policies explicitly prohibit one employee from approving and processing the same transaction. This requires students to compare the Processor and the Approver on the Transaction List to ensure that these are different employees.

While the policy does not specify, those with the authority to approve transactions should not be processing any transactions, even those approved by another manager. The level of staffing (or overstaffing) of the AP department makes it unlikely that there would ever be a lack of

processing staff available. This means there are two controls that could be tested in this area: (1) that no staff member processes transactions that he or she has approved and (2) that those with approval authority do not process any transactions.

To test the first (explicit) control, students should compare the employee numbers in the Processor and Approval columns. A logical test in Excel (=IF([Processor]=[Approver])) or any other software should identify four instances where the same AP employee both approved and processed transactions totaling \$6,991, for a 0.3% exception rate. This employee is the second Assistant AP Manager, Livia Garcia. All four of the transactions were under her approval limit. However, processing the transactions at all constitutes a control exception.

For the second, implicit control, students can simply filter the Processor column for any managers from the Employee List to detect that the same Assistant AP Manager also processed a fifth transaction that had been approved by the first Assistant AP Manager, Charlotte Rodriquez. The total of the exceptions for this test total \$10,991, a 0.4% exception rate, covering 0.5% of the total dollars processed during the year.

Controlled Payment Runs

The AP payments process includes both controls for financial reporting and operating effectiveness. This is most clearly noted in the controls of payment runs. Operating effectiveness and cash management policies mandate that discounts be taken whenever available and possible. Additional cash management and financial controls require AP payments to be made in one of two payment runs per week on Tuesdays and Fridays. While any testing in this area can only indicate a potential control violation, many students will likely test these controls, as they are suggestive of inefficiencies or the overall function of the AP department.

Testing for discounts requires students to match the discount terms from the Vendor List to the individual records in the Transaction List. Next, students will need to identify those with discounts available using a filter on the Payment Terms (222 of the transactions have discount terms). For these transactions, students will need to extract the discount percentage and period from the Payment Terms field using text functions such as =LEFT() or =MID() in Excel or similar functions in other software. Once they have extracted the discount percentage, students should calculate the net amount owed to compare to the actual payment amount. Students will note that DDI failed to take the discounts on eight transactions, resulting in \$138 in missed discounts. This translates to a 3.6% exception rate, but only 0.06% of total dollars eligible for discount.

However, to determine the actual control issue, students will need to take the testing one step further. Failure to take the discount could be caused by paying the invoice after the discount period and therefore missing the discount period. It could also be caused by paying the invoice timely but simply failing to deduct the discount. The first scenario could be a situation where Steve Weimer intentionally did not have the invoice paid in time to take the discount for cash management purposes. As noted in the Student Case Materials, "It is DDI policy to **make every effort** to pay invoices within any discount period offered." Intentionally missing the discount as part of a larger cash management policy would actually demonstrate the effectiveness of the control.

The second scenario would not be consistent with company policy or effective cash management controls. To test for discounts not taken when available, students will need to calculate the end of the discount period based on the Invoice Date and their extraction of the discount terms from above. By comparing the end of the discount period with the actual Payment

Date, students would see that only one invoice was paid timely but without a discount, resulting in a loss of \$13. This equates to a 0.5% exception rate and a minuscule dollar loss.

To test to the controlled payment runs, students will need to calculate the day of the week the payments were made on using =WEEKDAY() in Excel or a similar function in other software. All payments should be on Tuesdays (weekday 3) or on Fridays (weekday 6). Filtering on these days will show that there are no exceptions to this policy.

Budget-to-actual and Related Analytical Procedures

A monthly budget is provided for the current year for the expenses included in the data set. Students may want to compare actual amounts with the budgeted amounts to look for unusual variances. It is important to note that the staff of DDI acknowledges the budgeting is not managed well. Students can see this for themselves as they examine the budget file. Many of the expenses, with the noted exceptions of utilities and accounting services, are budgeted for constant amounts every month. Many of the accounts are at least slightly over budget. The rent on Store 3 is budgeted for \$100 less than actual every month, implying that a rent increase was not updated in the budget. That is not to say the budget provides no assistance in evaluating the expense accounts. Rent Expense for Store 2 and Store 4 each have a payment one order of magnitude too large.

For students to use the budget most effectively, they need to create a Pivot Table or similar construct to total expenses by account and month. The use of Excel's Data Model or other relational software techniques would allow budget and actual numbers to be combined in the same analysis. Students may even want to analyze the amounts by location, using the Sub Account column to identify any trends by store.

Potential Fraudulent Activity

While the focus of this case is risk assessment and control testing, fraud assessment is a necessary component of this. The data set does not provide any explicit examples of fraud such as fictitious vendors or employees. As noted above, it does provide evidence of the potential circumvention of controls over transaction authorization and classification.

Additionally, the Transaction List has been seeded with six suspicious transactions. One of the weaker controls in the AP system is the use of the "Miscellaneous" vendor to process small transactions. While these transactions were shown to be small in dollar terms, they do account for 105 of the 1,211 transactions (8.7%) and \$54,452 of the \$2,011,407 in amounts paid (2.7%). More importantly, they do not require the standard vendor approval procedures regular vendors require. As such, a Miscellaneous vendor can be added by any AP staff member.

This provides an area for potential fraud as an AP staff member can add his or her own information to the Miscellaneous vendor file and submit payments to it. The Student Case Materials note that any payments to employees for reimbursements should be processed through the Payroll Department. As such, there should be no overlap between AP employee addresses and Miscellaneous vendor addresses. Yet, one employee's (Chloe Miller) address appears in six Miscellaneous vendor transactions, totaling \$3,453, two of which she processed herself.

To find this anomaly, students will first need to match the Misc. Payment List with the Employee List. This may be done with a =XLOOKUP() in Excel, or more easily, in a relational table that filters only those Misc. Payments with an address on the Employee List. This will identify the six transactions to Chloe Miller's address. To determine the dollar amount involved

and the employees involved in processing the transactions, students will need to join in the Transaction List data and match the Payment ID to the analysis. Note that merely finding this anomaly is not proof of fraud, it should raise questions in the students and they should note the need to additional testing to conclude on the situation.

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Appendix A – Student Case Materials

Deanna’s Delights, Inc.: Data Analytics in Audit of the Procurement Cycle

In the spring of 2010, Deanna Long graduated from culinary school and considered her future. After talking with friends and family, Deanna decided to start her own business, called Deanna’s Delights, Inc. (DDI), teaching baking classes to small groups, grade schools and private customers at their own locations. Her business was a success right away and soon Deanna had expanded to her own store location with fresh-baked goods for sale, a regular schedule of baking classes, and sales of baking equipment.

Over the years, DDI has grown larger. It has four full-service locations, online sales and class scheduling, and baking class contracts with several retirement communities and other organizations. It owns the original store and the building next to it, which serves as both the headquarters of DDI and the main warehouse. To achieve this growth, Deanna brought in three additional investors and borrowed from her local bank. Even though DDI is privately held, the bank and investors require an audit to ensure the financial reporting is reliable.

Braun, Ellis, Garibaldi (BEG) is a regional accounting firm with eight offices. It performs audit and tax services for local businesses and consulting on a variety of business solutions. Most of BEG’s clients are privately held, often with multiple locations. The industries served by BEG range from service to light manufacturing to hospitality. As a result of BEG’s commitment to providing high-quality service, all BEG staff are well-trained and focus on one industry or service line after their second year at the firm.

Assignment

You have been assigned to an audit team. With your team, you need to review the memos Casey Peters, your audit senior, has prepared to identify potential risks in the procurement cycle. Other audit team members have been assigned risk assessment in the sales, inventory, and payroll cycles. Some information regarding these areas is provided to help you understand the overall processes, controls, and risks at DDI. You will not need to test these areas. You will need to:

1. Begin with a general risk assessment, and then focus on risks in your audit area of ***non-inventory procurement***.
 - a. Brainstorm potential misstatements and fraud risks and evaluate the design of the controls for effectiveness.
 - b. Determine specific tests to conduct on the data set you will be provided and the goals of those tests.
2. Using the data set provided by your instructor to test for identified risks.
 - a. Ensure the data set is complete with respect to transactions for the year for non-inventory procurement.
 - b. Identify anomalies in the data that may explain the client’s concerns or indicate potential misstatements or fraud.
3. Prepare a written risk assessment memo for the ***non-inventory procurement cycle***:
 - a. What specific aspects of the cycle did you choose for testing?
 - b. What made those aspects most relevant or in need of testing?

- c. What specific tests did you perform on the data and what was the goal of the tests?
- d. What are your findings and what conclusions have you drawn regarding additional substantive testing needed in this area?

DDI Background

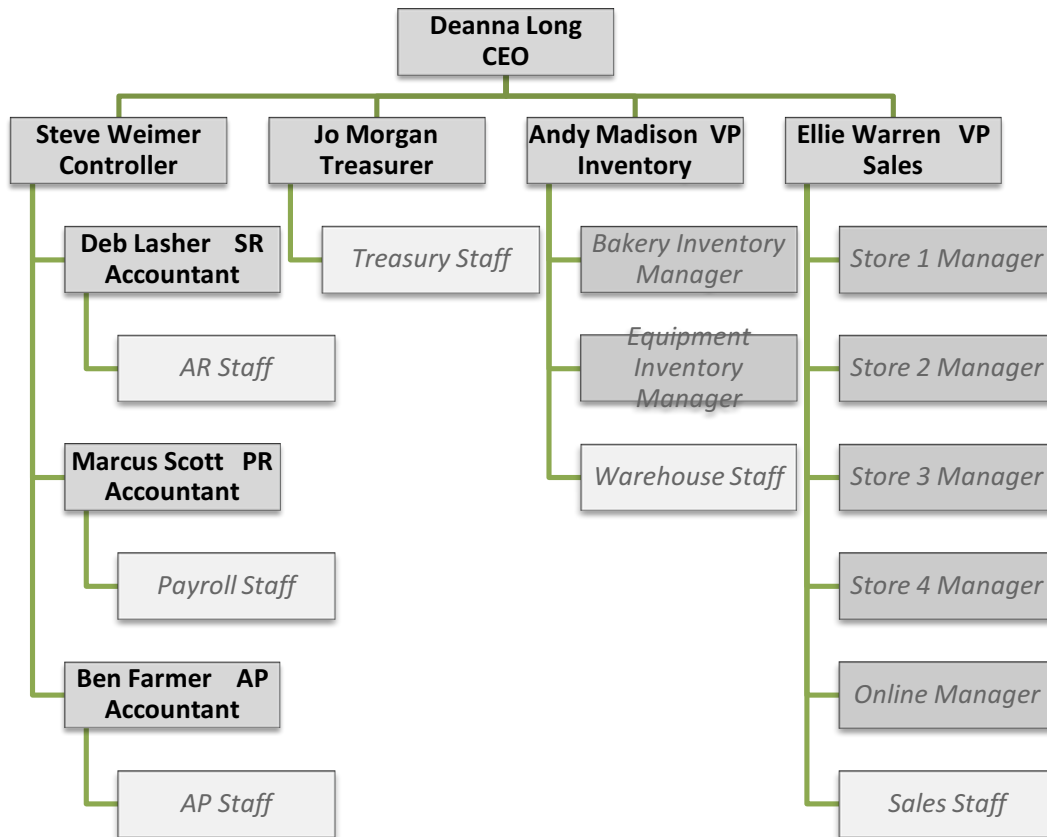
Ownership

DDI is a privately held Pennsylvania corporation. There are four shareholders: Deanna Long (51%), Ron Hartman, (23%), Kim Lee (17%) and Pat Allen (9%). Long is the only one of the owners involved with day-to-day activities. The Board of Directors consists of Long, Hartman, Lee, and a local lawyer. An annual audit is required by the terms of DDI's financing.

Organization

DDI has centralized accounting and warehouse processes located at the corporate headquarters. Additionally, there are five revenue centers: four full-service stores and one online store. Annual net sales have recently exceeded \$10,000,000 for the first time. However, the growth has led to problems with cost management and timely budgeting. As a result, cash flows are not up to expectations but client staff have not had time to determine the causes. The organization chart is shown below.

Figure 1
Deanna's Delights, Inc. Corporate Organization Chart



Policy and Procedure Documentation Review

Ms. Long insisted on producing written job descriptions and responsibilities for all employees on the organization chart (Figure 1), regardless of the location of their work. She provided a copy of these to BEG staff. Relevant information gleaned from this documentation is summarized below.

Sales

Ms. Warren manages the sales both online and at all the stores. For the bakery and equipment sales, she receives sales summaries from the managers and compares them to target sales numbers. Any large discrepancies (positive or negative) result in follow-up calls. Ms. Warren combines the sales summaries from all the stores to prepare reports on trends in sales units and to recommend inventory or pricing changes. All such changes are approved by Ms. Long. For the classes, Ms. Warren sets target class revenue numbers and compares the stores performance to target every month. If a store is falling behind, she will meet with the store manager to determine the best options for improvement. Finally, a bonus is paid quarterly to Ms. Warren, the online

manager and the store managers if sales have reached a pre-determined target. The bonuses amount to 1.25% of the employee's annual salary.

Accounts Receivable (AR)

Ms. Lasher receives a daily summary report from each store and the online manager of all sales by type. Her staff reconciles the totals with the store cash receipts and records the revenue in the accounting records. She then provides a summary for Mr. Weimer to match to the bank reconciliation. Each month, one of the AR staff prepares a schedule of outstanding AR accounts. Ms. Lasher reviews it for accuracy and forwards it to Mr. Weimer for review. On the rare occasion when an outstanding account is deemed uncollectible, Mr. Weimer makes a note on the schedule and Ms. Lasher performs the actual write-off of the account.

Inventory

DDI has inventory in five different physical locations: all four full-service stores and the warehouse at headquarters. There are two distinct types of inventory, with a separate manager for each type: baking goods and equipment. Mr. Madison is responsible for making sure that all locations have inventory as needed with minimal waste and minimum necessary storage. Both the bakeries and the baking classes require grocery items on hand, tracked by the Bakery Inventory Manager. All these are purchased, based upon store inventory levels, from either a local grocery chain that DDI has contracted with or a specialty baking company that ships goods out for overnight delivery. The grocery chain offers DDI a reduced price because of the quantities ordered.

The specialty baking goods are purchased in larger quantities and stored at the warehouse until delivered to the stores by an inventory staff person. These are typically items with longer shelf life. The Bakery Inventory Manager orders these items based upon current stock in the warehouse. He receives an electronic copy of all orders and matches those to receiving documents supplied by the stores or in the warehouse. He then forwards the information to Mr. Madison.

The equipment inventory is handled slightly differently. The equipment can be requisitioned by a bakery for use in the store, requisitioned by the baking instructors for use in the classes, or sold to customers in the stores and online. As a result, each store is required to prepare a physical inventory count each week, tracking all changes to receiving reports, requisitions or sales slips. These are forwarded to the Equipment Inventory Manager to compare to his records and ensure there are no discrepancies. He then prepares a report each Monday tracking all changes in inventory at the warehouse, including inventory received, shipped to the stores, or shipped to online customers. This report and the supporting documents are forwarded to Mr. Madison.

Payroll

Mr. Scott and his staff are responsible for all payroll at DDI. All headquarters managers are on salary, as are the inventory and store managers. The rest of the headquarters staff consists of 20 full-time hourly employees. At each store, the staffing is similar, with a mix of full-time and part-time hourly employees to support the manager. The warehouse has two managers, each responsible for part-time staff. Finally, the online staff includes the manager and two hourly staff members. Salaries employees are paid on the 1st and 15th of each month. The payroll staff uses a standard entry process as the amounts are the same each time.

For the bonuses, Mr. Weimer provides a list during the first week of a quarter for any bonuses to be paid for the prior quarter. Additionally, any reimbursement of employees is processed through the payroll system. Both the bonuses and reimbursements are processed as a special payroll on the 15th of the month.

For the hourly employees, both full-time and part-time, the payroll staff receive the hours from the appropriate manager each Monday. Mr. Scott reviews the payroll reports for accuracy before the actual payroll is prepared. Payroll is prepared on Wednesday and employees receive their pay each Friday. Since all funds are paid via direct deposit, there are no checks to sign. Instead, Mr. Scott prepares a payroll summary register for Mr. Weimer of all employees and their pay. Mr. Weimer then uses this during his bank reconciliation process. Finally, all payroll taxes and other withholdings are summarized in a schedule and forwarded to Ben Farmer for payment.

Accounts Payable (AP)

Mr. Farmer and his staff are responsible for processing and recording all AP transactions. Invoices for all inventory items are submitted by Mr. Madison, along with receiving reports confirming the proper delivery. Invoices for other purchases are submitted by the store manager or headquarters staff. All vendors have been approved in advance by Ms. Long or Mr. Weimer. It is DDI policy to make every effort to pay invoices within any discount period offered.

There are a number of recurring payments related to DDI financing. Payments are due monthly for the rent on three of the stores, the mortgage on the remaining store and headquarters building, and other loans outstanding. Also, payroll remittances and taxes are paid each month for the prior month balances. Mr. Farmer keeps a schedule of all payments due to ensure that none is paid late.

Each week, Mr. Farmer reviews the list of payments due to all vendors for the next four weeks. He identifies those that need to be paid in the current week and forwards the list to Mr. Weimer for approval of payments. Two payment runs are prepared each week, on Tuesdays and Fridays. On Mondays and Thursdays, Mr. Farmer prepares the payments to go out, primarily by electronic bill-pay, and the payments are made the next morning. He forwards the payment register to Mr. Weimer for use in the bank reconciliations.

Cash Management

Ms. Morgan manages all cash accounts, investment accounts and loan contracts. She is responsible for ensuring that DDI can pay its bills on time and that excess cash is used to reduce outstanding debt or earn investment income. Each Tuesday, she meets with Mr. Weimer to determine the expected cash needs for the week. Each day, the stores deposit their cash receipts in a local branch of the company's bank. Any other deposits, such as AR receipts, are made toward the end of the week. All payments for payroll and AP are on scheduled days. Mr. Weimer uses reports from Ms. Warren in Sales to anticipate the store cash receipts and any variations in payroll. He uses the reports from Mr. Farmer to anticipate cash payments for the current and next week.

At this point, Ms. Morgan has an understanding of the cash needs for the coming weeks. If there is likely to be a shortfall at any point, she arranges the cash to come in from investments or a line of credit DDI has with its bank. If there is likely to be an excess of cash, she determines whether to pay down the line or invest the funds in DDI's stock and bond investment portfolio. At the end of the week, once all her cash management transactions have been completed, she provides

Mr. Weimer with a report of the current outstanding balance on the line of credit and other loans, as well as the current balance of the investment portfolio. She reconciles the investment portfolio accounts and the line of credit account to the statements each month.

General Ledger

Mr. Weimer manages the general ledger and reconciliations. Each week, he deposits any AR receipts to the bank and tracks cash inflows based upon Ms. Lasher's documentation. He keeps the deposit information until month-end when he reconciles the bank accounts. At that time, he meets with Ms. Lasher regarding outstanding AR. He takes the report she prepares and discusses the status of the AR accounts. If he feels it is necessary to write-off a customer, he notes in on the report, signs the report, and gives it back to Ms. Lasher for processing.

He also oversees the weekly cash payments for payroll and AP. Mr. Scott provides the payroll summary registers and Mr. Weimer uses this to match to the bank reconciliation. For AP, he reviews the outstanding payables list from Mr. Farmer, compares the amounts to the cash projections and approves select accounts for payment. Once Mr. Farmer makes the payments, Mr. Weimer takes the payment register, stores it with the payroll register and sales deposit information until he reconciles the bank accounts.

Every Tuesday morning, Mr. Weimer takes the deposit and payment information and prepares a cash flow report. He then meets with Ms. Morgan Tuesday afternoon to discuss cash needs, leaving her to manage the actual cash balances.

The Procurement Cycle

The non-inventory procurement cycle covers all amounts paid for current assets or expenses that are not related to inventory or payroll. These fall into two categories based on the origination of the purchase and the documentation available. Each category is described below.

Non-Inventory Purchases

Non-inventory purchases of goods and services may consist of office expenses, selling expenses, other general expenses or prepaid items. They may originate at the individual stores or at the headquarters. All purchase requests must be made in writing using a two-part non-inventory Purchase Request Form, which includes the item, quantity needed and date needed. The first copy is forwarded to Steve Weimer, the controller, while the originator keeps the second. Mr. Weimer determines the necessity and availability of the item, considering usage and alternatives. For example, requests for office products by a store may simply require a pickup at the headquarters.

For items that are not on hand, Mr. Weimer will have Ben Farmer determine which vendor can meet the request for the best price. Mr. Farmer works off an established vendor list and price lists/catalogs for those vendors. Any item not available through a currently established vendor will require approval from Ms. Long. Once he has found the item, the AP staff completes a four-part Purchase Order (PO). All requests over \$100,000 require approval from Ms. Long. The first copy of the approved PO is sent to the vendor. The second is forwarded in the controller's office. The third is sent to the originator of the request. The fourth is maintained by AP staff to await payment.

When the shipments arrive, the originating store/department opens each package and inspects the contents for damage. A three-part receiving report is prepared noting the item, quantity and condition of the goods. The first copy is sent to Mr. Weimer to match with the PO. The second copy is sent to the Ben Farmer to await payment. The final copy is kept by the originator.

Recurring Bills

Certain bills, such as utilities, rent and insurance do not go through the standard acquisition process. The AP staff maintains a schedule of recurring payments, complete with payment terms, due dates, general ledger account codes and location sub-account codes. For items with invoices (e.g., utility bills), the date the invoice arrived is logged in the schedule along with the due date and amount due. For items without invoices (e.g., rent), a "To Be Processed" date is pre-listed in the schedule along with the due dates and amount due. When the invoice is received or upon the "To Be Processed" date, Mr. Farmer prepares a two-part authorization form. The first copy is attached to the invoice, if available, and given to the AP staff for processing with other invoices. The second copy is sent to the controller's office for filing.

Payments

When a vendor invoice arrives, an AP staff member stamps it so that numbers and approvals can be written directly on the invoice. A second staff member then matches the invoice with the purchase order and receiving report, comparing item number, description, and quantity and notes the account codes directly on the stamp, showing the general ledger account and location sub-account. If there are no discrepancies, the three forms are stapled into an AP package and entered into the accounting software on the processing date. For invoices without receiving information, support documentation should be attached from Mr. Weimer's office. This is verified before processing into the accounting system. All completed AP Packages are then forwarded to one of the Assistant AP Managers who reviews them for completeness, recalculates the amounts, and approves them. Each of them has a different approval limit. Payments over \$5,000 must be approved by the first Assistant or Mr. Farmer. Payments over \$10,000 must be approved by Mr. Farmer. Payments over \$100,000 require the approval of Ms. Long. Also, the processing and approval must be performed by different AP employees.

The first Assistant AP Manager maintains the AP subsidiary ledger. This is shared with Mr. Farmer for his outstanding payables list that he reviews with Mr. Weimer to decide on which payments to make. Once approved for payment, the second Assistant AP manager removes the package, prepares an electronic check for the amount less any discounts available, and writes "PAID" across the package with the confirmation code to ensure invoices are not paid twice.

DDI Expense Policies

DDI maintains a Miscellaneous Expense account for infrequent or unusual items that do not belong in any other expense account. These may be for travel and entertainment (T&E) purposes, meals or any other business item. They should not include recurring payments such as telephone bills. DDI policy is that no expense greater than \$1,000 may be classified as miscellaneous.

It also has a policy for fixed assets. GAAP rules allow a company to set a threshold for capitalizing fixed assets, regardless of their useful life. DDI has established a policy that any item under \$1,000 may be expensed to Repair and Maintenance Expense. Any item greater than that should be capitalized to the appropriate fixed asset account.

Transaction Data

DDI has provided your audit team with the full transaction data for the non-inventory procurement cycle. It has also provided information about the vendors, the general ledger accounts, and the AP employees that process the transactions. Finally, you will be provided with a monthly budget for the expense accounts included in the transaction data.

You will need to evaluate this data and test for specific risks regarding the internal controls, account balances and potential for fraud. Your instructor will provide you with information on accessing the data and the data analysis tools you should use.

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Discussion Questions

1. In the Deanna's Delights Inc. case illustrates the importance of data analytics in the risk assessment phase of an audit. What are some specific risks identified in the non-inventory procurement cycle, and how can data analytics test these risks effectively?
2. The case discusses the various internal controls related to the procurement cycle at Deanna's Delights Inc. How would you test the effectiveness of these controls using the provided data set? Provide examples of tests you would perform and the potential outcomes you might expect.
3. What steps would you take to identify and investigate anomalies in the data that may indicate fraud?

To Cite this Article

Paz, V., Souza, J. L., & Weinberger, A. (2024, Spring). Deanna's Delights, Inc.: Data analytics in the audit of the procurement cycle. *Journal of Multidisciplinary Research*, 16(1), 97–117.



Shul of Bal Harbor, Miami Beach, Florida
2024

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An Analysis of “Woke” Marketing

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Abstract

Companies are increasingly adopting “woke” marketing strategies. To understand the risks and opportunities this approach poses for brands, this article discusses the term “woke,” including its origins, definition, and context of use. Then, it explores the concept of “woke” marketing. It analyzes companies that have managed “woke” marketing campaigns effectively, including Nike and Procter & Gamble, as well as brands that have faced backlash from their “woke” marketing attempts, like Pepsi and The North Face. It also notes social media platforms’ role in “woke” marketing, as well as the considerations facing global marketers when it comes to implementing “woke” marketing strategies. Finally, it outlines specific suggestions for marketers seeking to launch a “woke” marketing campaign.

Keywords

woke marketing, consumer values, social issues, social change, social media marketing, global marketing

Introduction

Marketing is the process of satisfying consumer wants and needs at a profit by creating, delivering, managing, and sustaining value (Green & Keegan, 2020). New marketing trends are always evolving, ranging from sales promotion to celebrity endorsements. Recently, “woke” marketing has become an increasingly popular trend, especially in the United States of America (USA). Perceptions of “woke” marketing vary greatly, depending on the individual. Therefore, it can be risky for companies to utilize these approaches in marketing. Some companies have been able to successfully toe the line, while others have offended the masses with their “woke” marketing attempts. Chief Marketing Officers (CMOs) and marketing teams have discovered that the distribution of content on social media platforms can fuel and expand a “woke” marketing campaign. However, before implementing a “woke” marketing strategy, CMOs and marketing teams should thoroughly assess the company’s target market, consider the authenticity of their approach, and ensure the campaign aligns with company values. When addressing areas of cultural

sensitivity, companies also should be prepared for the possibility of backlash and outline a proper response plan.

Defining “Woke”

The use of the term “woke” has increased greatly in recent years. Originating in the early 1900s, Pan-African activist Marcus Garvey coined the term (Quarshie, 2023). Then, musicians began incorporating the term into their lyrics, especially Blues artists (Quarshie, 2023). The term “woke” re-gained popularity during the racial justice movements of the 1950s, as people used it to describe individuals who were “educated and aware of social injustice and racial inequality” (Alfonseca, 2023). With the recent Black Lives Matter movements of the 21st century, the term “woke” has once again resurfaced. The term still holds a similar meaning today, as progressive public administrators have stated that being “woke” means accepting that “there are systemic injustices in American society that need to be addressed” (Bump, 2022). Thus, the term aligns with concepts that politically left-leaning persons in the USA generally embrace. However, a recent study revealed that 56% of people in the USA, including three-fourths of Democrats and more than a third of Republicans, agree that being “woke” simply means “being informed, educated on, and aware of social injustices” (Page, 2023). The remaining 39% believe “wokeism” is a practice of being “overly politically correct and policing others’ words” (Page, 2023). Thus, the term “woke” has varying definitions and connotations among the population in the USA.

“Woke” Marketing Strategies

Although there are many people in the USA who view “wokeism” in a negative light, several companies have begun implementing “woke” marketing strategies. “Woke” marketing, sometimes referred to as socially-conscious marketing, is the practice of “companies aligning themselves with causes that are socially or politically charged in an attempt to appeal to consumers who share similar values” (Bogue, 2023, n.p.). There are multiple reasons that a company may pursue “woke” marketing strategies. For example, it may believe it is doing the right thing (Green, 2018). Furthermore, by adopting “woke” marketing strategies, companies aim to convey a message to potential buyers that they care about more than just business and are concerned with social issues (Bogue, 2023). However, according to New York University marketing professor Scott Galloway, many companies that implement “woke” marketing strategies are just following the money, as demographic shifts have resulted in large concentrations of wealth in blue, liberal areas of the country (Green, 2018).

Due to the varying motivations for adapting a “woke” marketing approach, more and more companies are joining this trend. Some of these marketing campaigns have been successful, while others have not. For example, Nike’s 2018 “woke” marketing campaign with Colin Kaepernick supported the former NFL player’s protests against police brutality and racial inequality in the United States. The “Dream Crazy” campaign was met with a variety of consumer reactions, ranging from widespread support to brand boycotts (Green, 2018). However, Phil Knight, the founder of Nike, understood that “it doesn’t matter how many people hate [a] brand as long as enough people love it” (Beer, 2021). The “woke” campaign proved to be beneficial for Nike, as the company’s stock prices “reached an all-time high immediately in the aftermath of the ad” (Wertz, 2018). Thus, Nike’s “Dream Crazy” campaign is a notable example of successful “woke” marketing.

Although most individuals associate “wokeism” with discussions of racial injustice, this concept also supports the movements of other historically marginalized groups, like women or members of the LGBTQ+ community. For example, Procter & Gamble (P&G), launched its “Share the Load” campaign in India in 2014 to draw attention to gender inequality. These advertisements feature husbands and wives working at their jobs, and when they get home, the household chores clearly appear to be solely the responsibility of the women. With this campaign, P&G highlights the prominence of gender stereotypes and asks viewers to address the unequal distribution of domestic jobs to drive change in society. Just one month after its launch, the campaign amassed 2.5 million views (Srivastava, 2021). This yielded positive results for the brand, as brand awareness increased by 34% in 2015 and 46% in 2016 (Srivastava, 2021). Thus, the “Share the Load” campaign from P&G is another example of successful “woke” marketing that highlights social issues and calls for change.

It is important to note that companies’ “woke” marketing strategies are not always successful. For example, Pepsi suffered harsh backlash after attempting “woke” marketing with its 2018 “Live for Now” campaign. To explain, Pepsi launched an ad starring Kendall Jenner amidst a protest scene, likely inspired by the Black Lives Matter protests occurring at the time. The commercial concluded with Kendall Jenner saving the day, merely by giving a Pepsi to a policeman. The ad was met with widespread criticism, as viewers felt as though the storyline trivialized the Black Lives Matter movement and protests against police brutality. In addition to the thousands of angry social media posts directed at the brand, Pepsi’s purchase consideration score among adults in the USA aged 18–34 decreased by 10% immediately following the ad (Marzilli, 2018). Even after Pepsi pulled the ad and issued a public apology, the company’s perception score dropped lower than it had been in nearly a decade (Marzilli, 2018). Thus, Pepsi’s “Live for Now” campaign illuminates the consequences of a poorly executed “woke” marketing strategy.

The North Face’s “Summer of Pride” campaign is another example of distasteful “woke” marketing. In 2022, the outdoor gear company developed a campaign starring a drag queen spokesperson. In the ads, the drag queen makes several homosexual-suggestive remarks, such as encouraging consumers to “come out” into the wilderness (Rahman, 2023). With its “Summer of Pride” campaign, The North Face hoped to convey the message that nature is a welcoming and safe place that lets you be who you are (Rahman, 2023). However, this campaign infuriated several individuals. Right-wing politicians including Marjorie Taylor Greene and Lauren Boebert accused The North Face of “grooming children” while others called for a boycott of the brand (Rahman, 2023). As a result, the brand discontinued several of its children’s products in the “Summer of Pride” line. This is yet another example of how companies are going too far with their “woke” marketing tactics.

Social Media and “Woke” Marketing

Companies often utilize social media platforms to push their “woke” marketing initiatives. A definition of *social media* is “internet-based applications that allow for the creation and exchange of user-generated content” (Kaplan & Haenlein, 2010, p. 59). In addition to posting their own content, social media users also can follow or subscribe to pages that align with their interests. People can share social media posts easily with the click of a button, which allows for interaction among individuals around the globe. These sites also allow brands to interact with their consumers or any of the 4.8 billion social media users worldwide (Nyst, 2023). Thus, marketers view social

media sites, such as Instagram or Twitter, as appealing platforms for launching “woke” marketing campaigns. For example, the ice cream company Ben & Jerry’s has repeatedly demonstrated “woke” ideology on its social media pages by posting content that claims systematic social injustice exists in the USA. On July 4th, 2023, Ben & Jerry’s posted a Tweet on Twitter (now X) reading: “The United States was founded on stolen land. This Fourth of July, let’s commit to returning it” (Ben & Jerry’s, 2023). The tweet was reposted over 10,000 times and garnered nearly 32 million views. Then, in November of 2023, Ben & Jerry’s called for legislators to abolish cash bail at jails, claiming the practice was “racist and predatory” (Ben & Jerry’s, 2023). Companies supporting “woke” movements, like Ben & Jerry’s, often decide to launch their campaign on social media platforms in an attempt to reach a wider audience and encourage users to continue the conversation by sharing posted content.

Global “Woke” Marketing

“Woke” marketing is most common in regard to brands’ marketing efforts within the United States. However, it is important to note that “woke” marketing also can apply on a global scale. These approaches may be less effective outside of the USA, as other countries are less progressive in several aspects of social norms. For example, same-sex marriage is taboo in countries like Italy and Japan, and women in Middle Eastern countries still are viewed as inferior to men (Freedman International, 2021). Thus, countries around the world respond differently to “woke” marketing due to a variety of factors, including culture and religion. For example, Coca-Cola’s 2019 “Love is Love” campaign, which featured same-sex couples, launched in several countries around the world. This campaign resulted in harsh backlash from Hungary, where leftwing and rightwing parties were in fierce debate over the same-sex marriage issue (Freedman International, 2019). As a result, the company later pulled the ads from the country. This example goes to show the importance of global marketers’ decision to pursue either a standardized or localized promotion approach. To explain, a standardized marketing strategy involves launching the same campaign for the mass market (Green & Keegan, 2020). In contrast, localized marketing strategies require campaigns to be altered to account for differences in consumer values and perceptions around the world (Green & Keegan, 2020). People could argue that Coca-Cola should not have proceeded with standardized marketing strategies for its “Love is Love” campaigns due to the varying beliefs of same-sex marriage around the world. Thus, when companies attempt to promote progressive ideas and “woke” ideology around the globe, they must be conscious of local norms, or they will face serious backlash.

Suggestions for “Woke” Marketing

To follow in the footsteps of companies that have successfully executed “woke” marketing campaigns and avoid the disasters previously described, CMOs and marketing teams should perform the following set of procedures before pursuing a “woke” strategy. First, CMOs should determine whether a “woke” marketing message would align with the values of consumers in the target market or if it would drive them away from the brand. Next, CMOs should consider the authenticity of their “woke” strategies by ensuring the campaign aligns with their company values. Last, because “woke” marketing often addresses topics of cultural sensitivity, CMOs must be prepared for backlash and construct a proper response plan. Because these procedures are vital in

designing a successful “woke” marketing campaign, we discuss each of the three steps in more detail in the following section.

Analysis of Target Market

A company should conduct extensive market research before it launches a “woke” marketing campaign (Bogue, 2023). Consumers have different beliefs and values, meaning they will perceive “woke” content in a variety of ways, both positive and negative. Therefore, CMOs must spearhead this market research initiative before producing any “woke” marketing to ensure the approach will strengthen the brand’s relationship with the majority of consumers in its target market, not damage it. *Majority* is the key term here. A “woke” marketing approach likely will alienate some consumers (Wertz, 2018). However, marketing teams that are afraid to take calculated risks and decide to stick with a “one-size-fits-all” marketing approach may miss out on future profits, like those Nike generated with its “Dream Crazy” campaign with Colin Kaepernick. CMOs can perform market research via surveys, social media analytics, and focus groups to gain a better understanding of their target market’s values before pursuing a “woke” marketing campaign (Bogue, 2023).

Authenticity

In order for a company’s “woke” marketing approach to appear authentic, it must align with the values of the company. For example, a CMO should not launch a marketing campaign supporting the Black Lives Matter movement if the company lacks a racially diverse staff. In other words, a company must practice what it preaches. Research shows that consumers want businesses to take a strong stance on issues, even if it means making a sacrifice (Wertz, 2018). It is not enough to just voice support for social causes in marketing; brands also must demonstrate authenticity and commitment with their actions (Bogue, 2023). Companies can demonstrate authenticity through sustained commitment to a cause. For example, brands that merely change their Instagram profile picture once a year to a rainbow version of their logo during Gay Pride Month are not exhibiting authentic commitment and support towards LGBTQ+ individuals. If consumers perceive brands’ “woke” marketing attempts as superficial and just an attempt to follow the money, this will hold negative consequences. As seen in the case of Pepsi, brands’ reputations can suffer greatly from poorly executed and ungenune marketing campaigns. Therefore, CMOs should never attempt to associate their brand randomly with a social cause. Instead, they should ensure that all marketing messages are an authentic reflection of the company’s values and behavior.

Prepare for Backlash

As above, some individuals are unreceptive to “wokeism” and may lash out at companies that employ “woke” marketing approaches. Therefore, it is important for CMOs to outline a response plan that their companies can use if a “woke” campaign draws criticism. A response plan should address criticism openly by explaining the brand’s intentions for launching the campaign and should showcase the brand’s commitment to the cause at hand (Bogue, 2023). By respectfully responding to backlash and clarifying any misconceptions, brands can build trust with consumers and maintain a strong brand image.

Conclusion

With the increasing popularity of the “woke” concept among consumers, it is no surprise that marketers are more commonly producing “woke” promotional content. All consumers do not exhibit this concept, so brands employing “woke” marketing strategies have alienated some of their potential consumers. Some brands, like Nike, have benefitted from these controversial approaches, while others, like Pepsi, have missed the mark. Companies like Ben & Jerry’s also have use social media platforms to push their “woke” marketing objectives. Before launching a “woke” marketing campaign, it is important that CMOs perform thorough market research on the values and perceptions of their target market, ensure their alignment with the “woke” concept or social movement is authentic, and prepare a response plan in case the campaign encounters criticism. Even though these procedures exist to help CMOs lead successful “woke” marketing campaigns, brands still may choose to refrain from creating “woke” content due to the personal beliefs of their leadership boards.

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About the Author

Alexandra MacAskill (amacaskill@stu.edu) brings a diverse academic background with a bachelor's degree in business marketing, a Master of Business Administration, and a Master of Science – Sports Administration. She is currently in the dissertation phase of her Doctor of Business Administration program at St. Thomas University in Miami, Florida. Professionally, MacAskill has specialized in sports marketing, with experience working for national governing bodies of sport, minor league baseball, and collegiate athletics. She has demonstrated a commitment to advancing the future of marketing through education by teaching sports marketing courses in the Sports Management program at Adams State University, where she currently serves as an adjunct professor. Additionally, MacAskill's professional journey has included multiple social media marketing roles, ranging from work with collegiate athletic departments to the study-prep company, Booster Prep, Inc. ORCID 0009-0008-0730-1857.

Discussion Questions

1. Given the pros and cons associated with a “woke” marketing strategy, is this promotional approach worth the risks?
2. Do you think there are specific industries where “woke” marketing would be particularly effective or ineffective, and why?
3. Do you foresee any future trends or developments in “woke” marketing? If so, how will companies need to adapt their strategies?

To Cite this Article

MacAskill, A. (2024, Spring). An analysis of “woke” marketing. *Journal of Multidisciplinary Research*, 16(1), 119–126.

An Investigation of the Determinants of Middle School Math Student Motivation and Success

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Abstract

This article addresses a twofold dilemma often found in secondary mathematics classrooms: a lack of motivation and a lack of achievement. The following investigation presents a concise yet flexible model for enhancing mathematics instruction, particularly at the middle school level. Designed to optimize both student motivation and achievement, differentiated instruction grounds this model, and a solid body of literature weaves its way through the framework. A wide variety of classroom environments supports the proposed suggestions.

Keywords: mathematics instruction, differentiated instruction, motivation.

Introduction

“When will I ever use this in real life?” This simple question is asked repeatedly in math classrooms across America. When polled, students concur that math is their worst/least favorite subject in school (Gafoor & Kurukkan, 2015). What contributes to students forming this opinion? Numerous factors play a role; however, a seriously crippling problem comes to light. Students who are either disinterested or dislike math may tend to be less motivated to strive to succeed. Indeed, Morosonova et al. (2018) find that both internal and external motivational factors strongly relate to classroom success. This research aims to uncover strategies and techniques teachers can implement in their classrooms to promote student motivation and, consequently, success in

mathematics achievement. An array of literature delineates patterns and trends in mathematics education. By revealing distinctions between teachers' expectations and students' needs, a plan emerges to bridge a dynamic gap between teachers and students. Ultimately, data pertaining to student motivation will uncover a path leading educators and students to success in math classrooms.

Mathematics Performance Rates in The United States

An analysis of national patterns of student success rates in the United States indicates an achievement decline. The Organization for Economic Cooperation and Development (OECD) implements The Programme for International Student Assessment (PISA) across a total of 95 participating countries. PISA records and measures the abilities of fifteen-year-old students' performance levels in reading, mathematics, and science literacy every three years (OECD). PISA aims to inspire educational reform by disseminating and popularizing international successes. In Germany, for example, the PISA scores reflected that more than 1 in 5 German students failed to reach baseline proficiency in reading. Country policy makers subsequently implemented a myriad of reform strategies. The government introduced new educational standards with assessments that would measure success rates and encouraged teachers to invest more into personal development practices (OECD). Germany moved from measures of below average proficiency in 2000 to measures of above average proficiency scores in 2015. By contrast, the United States assessments demonstrated below average math proficiency in 2000 without showing improvement in proficiency levels since 2000 (OECD). This study contends that an increase in student motivation links positively to higher mathematics success rates, and has the potential to keep The United States internationally competitive in mathematics.

Student Perceptions and Beliefs

Students' perceptions and students' beliefs regarding the subject of mathematics represent two of the most influential aspects of student motivation and success in the subject. Benden and Lauermaann (2022), for example, note that negative motivational adaptations among math students lead not only to poor academic performance but also correlate with withdrawing from mathematically related courses of study. Additionally, a study conducted with 51 student participants reflected on how perceptions and beliefs concerning the subject of mathematics directly relate to student performance rates. Among the 51 participants, 82% reported that they did not like mathematics. 75% expressed a belief that mathematics was a difficult subject. Additionally, 58% of students noted having a fear of mathematics (Gafoor & Kurukkan, 2015). Those students who believed math to be difficult also expressed an extreme dislike for the subject. These perceptions and beliefs devalue information taught in math classrooms among a majority of learners. If fear or dislike of the subject results in an unwillingness to engage in the subject, then those phenomena can block effective implementation of instructional procedures.

All hope is not lost, however. While 88% of students identified as hating math, among those students 82% also identified a willingness to learn math (Gafoor & Kurukkan, 2015). Altering the perceptions and beliefs that students possess toward mathematics constitutes an initial step for teachers to take before they can instill a willingness to learn.

Examining Students Aversions to Math

Mangino (2004) identifies four conditions attributed to the dislike of mathematics: aversive teaching styles, difficulty following instruction, difficulty in understanding subject, and difficulty in recollection.

When students dislike a class, they often contend that it was the teacher's fault for inducing lack of interest or failure to achieve. Educators tend to personalize their instruction according to their own philosophies of education. However, the act of teaching math should not become a passive enterprise for the learner; effective math instruction requires students to participate actively in the learning process (Mangino, 2004). In order for students to become and remain active participants in their education, teachers need to adapt their own styles in response to the styles of their learners. According to an aggregation of 36 studies, "The overall, unweighted group effect size value (r) was .384, and the weighted effect size value was .353 with a mean difference (d) of 755. Referring to the standard normal curve, this suggests that students whose learning styles are accommodated would be expected to achieve 75% of a standard deviation higher than students who have not had their learning styles accommodated" (Mangino, 2004, p. 13).

Students who struggle with math instruction can benefit from adapted teaching styles. Indeed, Muthomi and Mbugua (2014), find that differentiated instruction in the mathematics classroom leads to significantly improved student outcomes. Understanding mathematical concepts presents a challenge that educators need to confront. Teachers face the responsibility of adapting instructional techniques that accurately, effectively, and engagingly portray conceptual information. No single method of instruction will work equally effectively for all students. In fact, the manner of teachers' responses to their students influences motivation and achievement. For instance, Martin and Pickett (2013) find that when instructors challenge and build relationships with their fifth-grade students both motivation and engagement intensify. Related to this, Yu and Singh (2018) find that all levels of ninth through twelfth graders tend to respond better to conceptual, rather than procedural, instruction. Tailoring best practices (such as a conceptual emphasis) to the individual needs of students yields improvement in mathematical motivation and subsequent success (Gregory & Chapman, 2012).

The preceding discussion discloses that an individualized, relational, and conceptual approach to mathematics instruction positively impacts student motivation and achievement in mathematics. This shift of emphasis away from memorization comports with the considerable recent evidence that exists concerning the vital role that working memory plays in mathematical cognition (Ashcraft, 2002). While short term memory provides individuals with the ability to recall information just presented, working memory empowers individuals with the ability to hold onto information presented to them for later application. Mathematically, the carry-over operation in mental arithmetic – a simple activity involving working memory -- requires temporarily storing a string of numbers and holding the sum of one addition in mind while calculating the next (Merriam-Webster, n.d.). When students work through multi-step and strategy-based problems, the demand for working memory increases (Ashcraft, 2002). As students encounter new mathematical concepts, they should not simply memorize the information but also think critically about the applications. Teachers who promote deep understandings of new concepts expedite practicing working memory techniques. In turn, as students build their working memories, their capacities for understanding grow (Ashcraft, 2002).

Differentiated instruction gives rise to the implementation of multiple instructional techniques. This approach recognizes and responds to background knowledge, readiness, language, preferences in learning, and personal interests (Hatfield, n.d.). Curriculum flexibility and teachers' adaptability represent the foundation upon which differentiated instruction stands. In order to maximize the impact of differentiated instruction, educators initially need to analyze students' prior knowledge of mathematical concepts (Hatfield, n.d.) – i.e., focus on getting to the root of student understandings of mathematical processes.

Conclusion

Students may dislike math, but their dislike for it does not mean they lack a desire to learn it. Students' perspectives, teaching styles, and content differentiation profoundly impact students' motivation and subsequent success in math. Perspectives, styles, and differentiation constitute a triumvirate that empowers learners and educators to become principal stakeholders in the pursuit of success in mathematics. Student perspectives provide opportunities for learners and educators to acquire and share positive values. A range of theoretically examined and clinically tested teaching styles found appealing to and practiced by educators enables them to deliver effective instruction. Differentiation stimulates interest in the subject among learners with diverse interests. International success rates in mathematical achievement demonstrate that education legislation enhances success rates, and consequently success motivates further achievement. And because students' perspectives are malleable, this malleability enables learners and their teachers to collaborate in developing and implementing successful learning enterprises. Given appropriate time and resources, educators can adjust their own styles and differentiate instruction in order to respond to the needs of their students. The result: student motivation, mathematical achievement.

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Acknowledgement

This research was made possible by a generous grant from the Clare Boothe Luce Foundation.

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Discussion Questions

1. What are some of the conditions that lead to student fear of learning mathematics?
2. How can educators help to change students' negative beliefs and perceptions of mathematics?
3. What instructional techniques can help engage math students in the classroom and lead to improved achievement?

To Cite this Article

Shire, E., Savitz, R., & Savitz, F. (2024, Spring). An investigation of the determinants of middle school math student motivation and success. *Journal of Multidisciplinary Research*, 16(1), 127–132.

Book Review

Book Details

Nimrod, G. (2022). *The ageing of Aquarius: The hippies of the 60s in their 60s and beyond*. Cambridge University Press, 270 pages.

Reviewer

Ya'akov M. Bayer, Ph.D., Ben-Gurion University of the Negev

Synopsis and Evaluation

The Aging of Aquarius takes readers on an enlightening voyage into the traditions, histories, and lifestyles of persistent hippies, notably those still connected to their Countercultural roots. Journeying into The Farm, an intentional community in Tennessee, the author seeks to grasp the distinct aging patterns of its inhabitants. Through an exhaustive ethnographic and historical investigation of The Farm and the hippie cultural movement, accompanied by rich narratives and keen insights, the book provides an holistic view of the sociocultural, spiritual, and environmental intricacies that characterize this special communal environment. The book offers an in-depth look at the residents' histories, narratives, habits, well-being, and aging processes – all woven into the rich fabric of the commune's storied past and changing lifestyle, capturing the transitions through the years.

The book offers an historical exploration of hippie culture, delving into its rich history, tracing its deep-rooted origins, and meticulously documenting the various transformations and evolutions it has experienced over the decades. This comprehensive account is enriched further by a plethora of literary references, thoughtfully curated to complement and enhance the writing style. Notably, a substantial portion of the text is crafted in line with widely recognized academic writing standards, ensuring both rigor and clarity for readers seeking a scholarly understanding of the subject matter.

The author's fascination with aging hippies was ignited by a chance meeting with an elderly hippie duo in Amsterdam. This encounter spurred a cascade of inquiries about the lives, beliefs, and lifestyles of aging hippies, as well as their perspectives on their past and present. Her curiosity is contagious, inciting the reader to reflect on these questions too.

The study is based on in-depth interviews with 40 people who were either founding members of The Farm or joined it during its early days. The study participants are categorized into three groups: lifelong residents, returning residents, and former residents. This categorization provides a broad perspective on the different paths these individuals have taken over the years. The book highlights the strong sense of community and identity among the members of The Farm.

Their shared history and experiences have created strong bonds among them, and The Farm has become a central part of their identity.

The narrative unfolds with the author's vibrant depiction of her first experience at The Farm, a place that surpasses her anticipations with its serene and vast environment. Her eagerness and curiosity are palpable as she vividly describes the lively buildings, the people she interacts with, and the overall mood of the place. The book goes beyond being a simple study, evolving into a personal journey for the author. She contemplates how her time at The Farm has shaped her own life, from her everyday habits to her aspirations for the future. This personal touch deepens the narrative, making it more engaging and relatable.

The Farm is described as a significant part of the lives of its members. The sense of community they built is very valuable to them. The founding members of The Farm feel that they influenced the formation of the community. The author describes a deep connection to the land on which The Farm is situated. This connection is not just rational but also emotional, and the land is seen as part of the community, just like the people. The Farm is not just a physical location but an integral part of the community's identity. The author's personal experiences and reflections on the land add a layer of emotional depth to the narrative, making it resonate with readers.

The book delves into a range of controversial issues related to the lifestyle of the historical hippie movement, specifically, those residing in The Farm. It examines the interplay between their norms and mainstream societal standards, as well as the foundational principles of the original hippie movement. The book investigates a range of subjects such as perspectives on sex, relationships, unconventional partnerships, marriage, extramarital sex, and drug use. These topics are likely to be contentious, as they challenge conventional norms and values. The book provides a nuanced exploration of these issues, offering insights into the community's unique approach to these controversial topics.

The change in the farm's management principles reflects the fascinating evolution of original worldviews and adaptation to social changes. The farm underwent a significant economic transformation, embracing the principles and ideals of the original hippie way of life. The book discusses a significant shift in The Farm community's lifestyle, moving, in some respects, from a communal living arrangement to a more individualistic one. This change was prompted by various factors, including financial challenges and changes in the community's bylaws. The changeover not only involved a financial challenge but also caused significant emotional distress and a sense of loss among the members. Despite these challenges, the community continued to evolve and adapt to these new circumstances. Over the years, the management recognized the importance of sustainability and adopted a holistic approach to agriculture. Organic farming practices became the cornerstone of their operations, eschewing synthetic chemicals in favor of natural alternatives. By nurturing the health of the land and prioritizing the well-being of both crops and livestock, the farm exemplified a commitment to ecological balance and the production of wholesome, chemical-free products. The economic model of the farm also was rooted in cooperation and community. Rejecting hierarchical structures, the management fostered a sense of equality and collective decision-making. Shared ownership, responsibilities, and fair distribution of resources were prioritized. By engaging with the local community through farmers' markets, community-supported agriculture programs, and educational initiatives, the farm cultivated strong relationships with like-minded consumers. This direct connection empowered consumers to make conscious choices while supporting the farm's sustainable practices, fostering a mutually beneficial relationship between the farm and its community.

The book tackles the issue of aging among the group members in light of the famous hippie saying, “Never trust anybody over 30.” According to this quote, being a true hippie originally meant being young, implying that getting older would naturally undermine one’s hippie identity. However, according to the author, the residents of the farm challenge this notion and explore the complexities that arise as the group members grow older. It delves into the evolution of their perspectives, values, and priorities over time. Rather than dismissing aging as an inherent contradiction to their hippie ideals, the book embraces the opportunity for personal growth and transformation that comes with age. The narrative delves into how the group members navigate the challenges of maintaining their original hippie ethos while embracing the wisdom and experiences that come with getting older. It showcases how they adapt their lifestyles, beliefs, and activism to suit their changing circumstances and societal dynamics. Ultimately, the book portrays aging as a natural part of life that does not necessarily negate one’s hippie identity. Instead, it emphasizes the importance of embracing new perspectives, remaining open-minded, and finding ways to contribute to positive social change, regardless of age. It highlights the potential for continued growth, self-discovery, and activism as individuals move beyond the traditional bounds of youth, challenging the notion that being a hippie is reserved exclusively for the young.

The book also delves into the community’s approach to aging and end-of-life, presenting a compassionate and communal perspective that contrasts with more individualistic approaches often seen in mainstream society. It delves into the concept of “dying together,” a poignant representation of the community’s approach to death, in which no one dies alone but is surrounded by friends and family. This approach, contrasted with the often-isolated experiences of aging and death in mainstream Western societies, is a refreshing perspective that challenges readers to reconsider their views on these inevitable aspects of life. The comparison of death to birth is particularly poignant, reflecting the cyclical nature of life as perceived by the community. As mentioned, community members often die surrounded by family and friends, and there is a comparison made between dying and birth. There is also a discussion about the potential for communal living as the members grow older.

The book’s strength lies in its meticulous exploration of the “hippie” identity as the community members themselves define it. It delves deeply into the concept of being a “hippie” and delves into the multifaceted components that contribute to its meaning. The author offers a nuanced understanding of what it truly means to be a “hippie,” with love serving as a central and unifying principle. This examination of identity is both enlightening and thought-provoking, challenging preconceived notions and providing a more comprehensive comprehension of the term and its evolution within the context of The Farm. The book offers a unique perspective on aging within a countercultural context. It shows that aging is not a uniform process and can be experienced differently based on one’s lifestyle, beliefs, and community. The aging hippies in The Farm have maintained their countercultural identities and lifestyles, challenging conventional notions of aging. The book suggests that the hippie lifestyle, with its emphasis on community, spirituality, and connection with nature, may have a positive impact on the aging process. The members of The Farm seem to have a high level of well-being and satisfaction in their later years. The book shows that the aging hippies have remained active and engaged, both within their community and in broader social and environmental issues. This challenges stereotypes of older adults as passive or disengaged.

The author’s writing style is characterized by meticulous attention to detail and vivid descriptions, accompanied by numerous citations from the group members themselves. This approach enables the reader to form a vivid and comprehensive image of The Farm and its

residents. The narrative is captivating, enriched by a multitude of anecdotes and personal stories that breathe life into the characters. The author's evident passion for the subject matter permeates the entire book, creating a compelling reading experience. Moreover, the author's journey and transformation, which unfold within the pages, serve as a testament to the transformative power of immersive research, illustrating the potential for profound personal growth and change.

The narrative within the book appears to heavily emphasize the positive aspects of life in The Farm and the transformative personal growth experienced by the author. While this inclination toward positivity is not inherently negative, it may give rise to an impression of an overly idealized portrayal of the community and its lifestyle, potentially overlooking alternative interpretations. While the narrative successfully delves into the intricacies and intimate details of life within The Farm, there appears to be a lack of a more critical perspective. It could have been valuable to incorporate a viewpoint that is less adoring and more skeptical, prompting a deeper examination of the potential limitations, contradictions, and complexities within the movement. By exploring the challenges and conflicts that arose, the narrative could have gained additional layers of depth, allowing for a more nuanced and comprehensive portrayal of The Farm and its impact on the individuals involved.

Overall, "The Aging of Aquarius" is a unique and insightful exploration of a lesser-known aspect of aging. It challenges conventional notions of aging and offers a fresh perspective on the experience of growing older. The book offers a unique perspective on community living, identity, and aging. It is a valuable contribution to the literature on alternative communities. It is a must-read for anyone interested in counterculture, aging, and the intersection of the two.

In the Author's Own Words

"The greatest lesson that the visionary hippies interviewed for this book taught us can eventually be summarized in one word – commitment. Commitment includes commitment to other people and commitment to ideals" (p. 252).

Reviewer's Details

Dr. Ya'akov M. Bayer (bayer@bgu.ac.il) holds a Ph.D. in economics from Ben-Gurion University of the Negev and has training in both economics and anthropology. He is a senior lecturer in the Department of Health Systems Management of Ben-Gurion University of the Negev and serves in managerial positions in the Israeli Ministry of Health. His research relates to health economics, health policy, decision-making, and behavioral economics, with an emphasis on the connections between economics and culture, religion, beliefs, cognition, mental health, and old age. ORCID 0000-0002-3096-261X.

To Cite this Review

Bayer, Y. M. (2024, Spring). Review of *The ageing of Aquarius: The hippies of the 60s in their 60s and beyond*, by G. Nimrod. *Journal of Multidisciplinary Research*, 16(1), 133–136.

Book Review

Book Details

Timor, T. (2023). *Walking a tightrope: The story of a brave mother*. ePublish, 280 pages, paperback and digital, ISBN 979-8394-652202.

Reviewer

Beth Erez, Ph.D.

Synopsis and Evaluation

Tsafi Timor leads her readers on a captivating exploration of personal growth through the eyes of the protagonist, Alex—woman, mother, lecturer, and researcher. Set against the backdrop of the COVID-19 pandemic, the sense of apocalyptic uncertainty becomes a catalyst for Alex's profound self-discovery. The pandemic's presence enables her to unearth hidden dimensions of her identity, speak her secrets outwardly, scrutinize her connections with her surroundings, reevaluate her journey as a mother, and articulate her intricate narrative of raising her son Daniel, whom society views as "different."

Within these pages, Alex embarks on a journey of self-unveiling, peeling back layers to reveal hidden truths. However, this literary endeavor extends beyond being a mere book; it evolves into a guide for acceptance and devoted motherhood in specific and parenting in general, resonating even after its conclusion. As her journey unfolds, her recognition of her own imperfections becomes a wellspring of inspiration. Readers are presented with a reflective mirror to their own lives, particularly focusing on the tender relationship between a mother and her young adult son.

This emotionally charged tale stands as a wellspring of inspiration for mothers and parents navigating the challenges of raising children amidst their personal ideals and societal norms. By deftly merging her academic expertise in Psychology, exploring parenthood, and Special Needs Education, focusing on the inclusion of individuals with special needs, learning and social-emotional disabilities, along with her maternal experiences, the author guides Alex on a transformative path, shifting her mindset from assertive declarations to inquisitive contemplation. Thus, readers glean profound insights not only into the realms of motherhood and parenting but also into the broader spectrum of life.

Beyond its gripping narrative and unforeseen conclusion, the book casts a significant social spotlight on how society perceives individuals labeled as having special needs. It poses thought-provoking questions about this classification and its validity, while addressing this marginalized population that is often overlooked. The novel doubles as a compelling testimonial to the pandemic's toll on mental health, delving into the shared emotions and internal struggles stirred by the coronavirus. Moreover, it meticulously portrays the way COVID-19 exacerbated existing

divides within Israeli society—be it between the secular and Orthodox communities, those in authority and ordinary citizens, or the boundaries of public interests versus personal concerns.

The narrative flows seamlessly, enhanced by its dynamic shift from a first-person to a third-person perspective, adding depth to the plot's progression. Alex, the central figure, undergoes fundamental transformations in her outlook on life throughout her odyssey. Her compassionate attitude towards individuals grappling with emotional challenges shines through the pages, making her humaneness strikingly relatable.

In my opinion, Tsafi Timor's narrative guides us through a voyage of self-discovery, compassion, and societal scrutiny. It stands as a poignant portrayal of the intricacies of motherhood and parenting, set against the tapestry of a pandemic-ridden world. Through Alex's story, the author unearths profound truths about acceptance, love, and the enduring human spirit.

In the Author's Own Words

“Because in life we're all walking a tightrope, and our challenge is the ability to maintain equilibrium and not fall, especially if there's an abyss beneath us. The challenge is significant. We take measured steps forward, heel to toe, our bodies leaning sometimes to the right, sometimes to the left, influenced by a breeze outside or an emotional tempest within, and finally we manage to steady ourselves, congratulate ourselves on our good fortune, and continue walking that same tightrope to the next challenge” (p. 279).

Reviewer's Details

Dr. Beth Erez holds a Ph.D. in Information Science from Drexel University, Philadelphia, PA and has worked in fields of technology and strategy as the Deputy Director of a non-profit technology strategy organization, as a Department Head at the Israeli Ministry of Communications, and later as Vice President in the fields of marketing and business development at international hi-tech broadcast-technology companies. Erez was born in the US and moved to Israel in 1977. She began sculpting in 2001 in spite of traveling the world on business and in 2014 Erez became a fulltime professional artist. Erez was Chairman of the Association of Herzliya Artists (180 members) and of the Board of Directors of the Herzliya Municipal Art Gallery, voluntary elected positions from 2014–2016. She is also a member of the Israeli Professional Visual Arts Association since 2006, the major professional association of visual artists in Israel. Erez has exhibited widely in Israel and in the rest of the world. Her works can be found in public and private collections worldwide in countries such as Israel, South Africa, United States, Singapore, Australia, and Canada.

To Cite this Review

Erez, B. (2024, Spring). Review of *Walking a tightrope: The story of a brave mother*, by T. Timor. *Journal of Multidisciplinary Research*, 16(1), 137–138.

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