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**Book Review: *Reading the Constitution: Why I Chose Pragmatism Not Textualism*, by
Former Justice Stephen Breyer**

Sue Burum
Minnesota State University, Mankato

Preface

In *Reading the Constitution* (2024), Former U.S. Supreme Court Justice Stephen Breyer writes that textualism is used by most of the Court when interpreting and applying statutes and the U.S. Constitution to cases before the Court. Textualism is where the Justices examine the language of the text as it was understood when it was written to discover its meaning. Breyer disagrees with this approach and argues that Justices should instead focus on understanding the purpose of the statutes or constitutional sections and the consequences of deciding a case in a particular way. This author will summarize his position and critique his pragmatist approach. This author is critical of Justice Breyer's advocacy of non-originalism due to the lack of constraints such an interpretation would place on a Justice's decisions. However, the book itself is an excellent contemporary example of how a Justice might justify non-originalism, making it worth reading by legal academics and students interested in how judges decide cases.

Abstract

In 2015, Elena Kagan, an Associate Justice on the Supreme Court, said in an interview at Harvard University, "I think we're all textualists now, in a way that was not even remotely true when Justice Scalia joined the bench." Her interviewer asked, "Even Justice Breyer?" Kagan replied, "Well, Justice Breyer might be a bit of an outlier" (White, 2024). Justice Stephen Breyer was an Associate Justice on the Supreme Court from 1994-2022. He was born in San Francisco in 1938. Breyer graduated from Harvard Law School in 1964. He clerked for Associate Justice Arthur Goldberg from 1964-1965. After this, Breyer was also a special assistant to the United States Assistant Attorney General for antitrust, and he worked for Archibald Cox and the Watergate Special Prosecution Force. From 1967-1980, he was a law professor at Harvard Law School, specializing in Administrative Law. He took a leave of absence in 1973-1974 to serve as a special counsel to the U.S. Senate Committee on the Judiciary. In this position, he collaborated closely with Senator Edward M. Kennedy, who was then chairman of the committee. Breyer became a federal judge to the U.S. Court of Appeals for the First Circuit in 1980 and served until 1994. He has written 17 books and is now back at Harvard Law School as an Administrative Law and Process professor. His most recent book, *Reading the Constitution: Why I Chose Pragmatism Not Textualism*, was published on March 26, 2024. The book pulls from his education, training, and experiences to articulate an alternative to textualism, which is the dominant approach used to decide cases on the Supreme Court (Court). He hopes this book will guide future Justices to use a different approach. The book is divided into five sections. This author will summarize these sections and consider if Breyer's approach is really the best approach to analyzing and deciding cases.

Keywords: court decision making, originalism, textualism, pragmatism

Part I: Purpose vs. Textualism

One major decision when an appellate judge has a case is to decide how to interpret the law in the case. Statutes or constitutional provisions can mean different things to different people. The two sides in the case argue for different outcomes based on different interpretations of the law. From his experience, Breyer writes that he sees many judges that put primary weight, some even exclusive weight, on the words in the statute as understood by an ordinary person. This is not how most people interpret Textualism. Breyer calls these judges “textualists,” although he uses the terms “textualism” and “originalism” almost interchangeably. Specifically, he uses “textualism” when he writes about interpreting statutes and “originalism” when interpreting constitutions. Breyer sees the objective of textualism as making the law more definite and simpler to understand. It should overcome a judge’s temptation to substitute the judge’s own ideas of what is “good” for what the law demands. Breyer does not believe textualism achieves these goals. His experiences with other people and other judges led him to develop a different approach to interpretation. He calls it “purposivism” or “legal pragmatism,” which does not ignore the text but instead sees the text as but one tool. Breyer advocates putting more weight on a statute’s purpose and the consequences different interpretations can lead to. He encourages asking how a hypothetical “reasonable legislator” would have interpreted the statute to discover its purpose.

Part II: Interpreting Statutory Law

Breyer says that judges have traditionally used a wide variety of tools to help interpret the language in statutes, including text, history, precedent, tradition, purposes, values, and consequences. He says that laws arise out of some specific situation. They are not made as some abstract proposition; they are expressions of policy that attempt to redress some problem and try to achieve some specific purpose. A purpose-orientated judge needs to ask what the statute is expected to accomplish. As Breyer explains, a pragmatic judge does not simply choose a result that does the greatest good for the greatest number of people. A pragmatist’s decision must consider the way a decision will affect a host of related rules, practices, habits, and institutions, as well as the practical consequences of the decision, including how those affected by the decision will react. The judge must also reflect on *stare decisis* and the potential ramifications of the decision on prior cases.

Breyer recommends asking what a reasonable legislator would think the statute’s purpose was when trying to read the language of the statute. This perspective has more advantages than solely considering what the statute would mean to the average person, which is what a textualist would do. Interpreting the statute to fulfill a legislative purpose creates the best opportunity for the statute to achieve that purpose. This keeps the success or failure of the statute solely on the legislature. If Courts rewrite statutes, then legislators can simply blame the Courts for the law’s failure.

Textualists often disagree with this approach. Textualists frequently believe that there is a single answer to interpretive problems. Because of this belief, Breyer says that a textualist will instead focus on what the average reader would conclude a statute meant. A judge using this perspective would use tools like dictionaries to arrive at meaning. However, without the average person first knowing the legislators’ purposes for the statute, dictionaries may provide too many

possible approaches, yet they still may not arrive at the most useful interpretation. The general dictionary definition does not provide a specific context.

Judges, especially textualists, often use legislative history as a tool in addition to dictionaries. Breyer cautions that this is a difficult tool to use. No one really knows why a legislator votes for a particular statute. Sometimes the statute may be important to one legislator and not another. For example, deals can be made where the less interested legislator supports a bill so the legislator who really wants the bill will reciprocate and vote for their future bill in exchange. In addition, if a textualist solely relies on dictionaries and legislative history without a clear understanding of the purpose of the statute, the chosen meaning may not actually achieve the bill's purpose. Legislative history can be one of many tools used to find a legislation's purpose, but it cannot be the sole tool in statutory interpretation.

Besides dictionaries and legislative history, there are also many canons of interpretation that can be used to find a statute's meaning. Some of these canons include the following: 1) Avoid reading statutory language in a way that merely duplicates other language in the same section; 2) Do not interpret words in a way that makes them ineffective; and 3) Words should be given the same meaning throughout the statute. In his book, Breyer points to a study that shows staffers, who are the ones who draft the legislation, are not always aware of or use these canons of interpretation. The staffers who know these rules are often law-trained, but the average citizen would not know these canons of interpretation or use them. The emphasis on the average person in interpretation may be less helpful than focusing on the average legislator. Most legislators have some legal training in their backgrounds, or they learn while they are legislators. Thus, a better understanding can be gained by focusing on the average legislator than the average person. Still, according to Breyer, canons alone may only confuse one's interpretation. To choose which canons to use and conclude whether a canon has led to an intended interpretation, the purpose of the legislation needs to be known.

Breyer then goes through numerous cases to show the differences between textualism and pragmatism. One example he uses is *FDA v. Brown & Williamson Tobacco Corp.* (2000). The Federal Food, Drug, and Cosmetic Act (FDCA) granted the Federal Food and Drug Administration (FDA) the authority to regulate drugs and devices (Federal Food, Drug, and Cosmetic Act, 1938). For decades, the FDA did not regulate cigarettes until choosing to do so in 1990. The FDA said a cigarette was a device that delivered a drug, nicotine, to the body. The FDA forbade the sale of cigarettes to children, regulated advertising, and limited the methods of marketing cigarettes. Tobacco companies challenged the regulation. Five members of the majority sided with the tobacco companies. The majority said the objective of the FDA was regulation to keep food and drugs safe for their intended uses. If a drug were not safe, the FDA would not allow the drug to be distributed, and in the case of cigarettes, the FDA did not withdraw the product from the market. Furthermore, in a different statute, Congress forbade the FDA from removing cigarettes from the market (Breyer, 2024). The FDA did not have the power to regulate in other ways, only to withdraw the product. The majority concluded that Congress could not have intended the FDA to start regulating a product without specifically granting that power (Breyer, 2024).

Breyer wrote a dissent in the case, and he did *not* primarily focus on the text as the majority did in its analysis. Instead, he primarily focused on purpose. Breyer did not find the language to

mean that the FDA could only remove cigarettes. The FDA could conclude that removing cigarettes from the market could lead smokers to less safe products like homemade cigarettes. Congress could not have intended that the FDA choose a more dangerous solution. Congress could have intended for the FDA to regulate once science showed the danger from cigarettes, especially to children. Breyer concludes that both sides used text and purpose arguments. The majority thought tobacco products were too important and used by too many people for Congress to have authorized the regulation of tobacco without clearly saying so. The dissent thought the changes in the science brought tobacco within the scope of the statute's regulation-authorizing language based on the public health purposes of the statute (Breyer, 2024).

Part III: Interpreting the Constitution

As with statutes, Breyer advocates continuing to look at the text when interpreting the Constitution. As the text was written in the 1700s, an interpreter may need to use 1700s dictionaries to understand the language. The language in the document may set boundaries for the interpreter. But Breyer concludes, there is no single way to interpret constitutional provisions. He argues a solitary focus on textualism will also make the Constitution less workable. An interpreter may need to turn to history. Writings of the Founders of the Constitution, like the Federalist Papers, can be helpful in the same way that legislative history is useful to understanding statutes (Hamilton et al., 1787). In this context, Breyer calls the textualists "originalists," and he considers "originalism" to be a form of textualism. Using this approach, the interpreter needs to focus on history to interpret the document the way the Founders would have interpreted it. However, outside writings can have the same types of problems in that not all the Founders were writing and explaining their individual reasons for voting for the Constitution or addressing their understanding of how each section was supposed to work. Breyer advocates continuing to look at the text, but for him, finding the Constitutional values takes the place of finding the purpose of statutes. The consequences of different interpretations are important, especially *stare decisis* and the use of precedent. The Constitution is not a statute in that it does things in broad terms. It delegates broad authority to the federal government, lays out personnel rights in very general terms, and was intended to last for the ages. Breyer finds a rigid reliance on history harmful. He argues that viewing the document as frozen in time will make the Constitution unable to change, and as a result, it will not survive for the ages. He also does not see the approach deterring judges from substituting their own views.

As with his discussion on statutes, Breyer uses numerous cases to illustrate how he believes the Constitution should be interpreted. One case he discusses is *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022). In 2008, in *District of Columbia v. Heller*, the Court held that the Second Amendment protects the right of law-abiding citizens to possess a handgun in their home for purposes of self-defense (*District of Columbia v. Heller*, 2008). In *Bruen*, the Court considered the ability, under the Second Amendment, to possess a handgun outside the home for purposes of self-defense (*New York State Rifle & Pistol Association, Inc. v. Bruen*, 2022). New York law required citizens to have a license to carry a gun outside of the home. To get a conceal and carry permit, New York required the petitioner to show "proper cause," or a special need beyond that of the public to have a gun outside of the home. Breyer said the lower courts applied a two-step approach to resolve permit questions. For the first step, they questioned if the challenged law regulated activity outside of the scope of the Second Amendment. If so, then the law did not run afoul of the amendment. If the law did regulate activity falling within the scope of the Second

Amendment, then the Courts proceeded to the second step. For the second step, the Court would ask how close the law came to the core of the amendment's right and how severely the law burdened the right. The government could keep its law if the government could show a compelling need for its law and that the law was narrowly tailored to achieve the government's compelling interest (Breyer, 2022). This would be a strict scrutiny approach. However, after *Heller*, most Courts used intermediate scrutiny when analyzing public-carry laws. This would only require an important or substantial need to regulate, and the public law would not have to be written in the least restrictive fashion to be upheld.

Breyer wrote that the majority used a new text, history, and tradition analysis to see if the law is part of a historical tradition that is within the protection of the Second Amendment's right to bear arms. In using its new test, the majority said that one must find the public understanding of the legal text in the period after its enactment or ratification. Using this test, the Court affirmed *Heller* and held that the state's law was unconstitutional and infringed on the right to keep and bear arms. Breyer wrote the dissenting opinion to the 6-3 decision, where Justices Sonia Sotomayor and Elena Kagan joined him. Breyer argues that an originalist approach was too narrow. When determining the scope or meaning of a constitutional provision, Justices must not only look at the text of the amendment but also the purposes, values, and need for the law, as well as the consequences of different interpretations. Judges are not historians and cannot be expected to divine historical knowledge and apply it to contemporary problems. Breyer believes the new framework the Court adopted harms a state's ability to regulate guns. He concludes that New York's legislature considered evidence of gun violence and adopted a reasonable licensing law to keep the people of the state safe. The Constitution will fail the people if it is not allowed to be a contemporary, workable document. Therefore, according to Breyer, originalism will result in a constitution no one wants (Breyer, 2022).

Part IV: Why Values, Purposes, and Workability Provide a Better Way to Interpret the Constitution

The emphasis of Breyer's book was on interpreting statutes and constitutions. There were a couple of smaller sections that followed. In this section, Breyer focuses on the Founders and their desire for the Constitution to work well for centuries to come. He uses new cases as well as cases from prior chapters to show how the goal of workability can help contemporary judges reach sound decisions by discovering and applying values and purposes to constitutional cases.

Part V: Paradigm Shifts on the Court

In this fifth section, Breyer reviewed prior Court shifts. The era of *laissez faire* from the later 1800s led to the Warren Court, an era of government regulation and emphasis on civil liberties. The Warren Court eventually moved into the Rehnquist Court and a narrowing of the scope of many newly established rights. How did the Court move through these paradigm shifts? Breyer explains how it was through different interpretation approaches.

A Better Discussion Framework?

This writer's criticism of Breyer's book concerns the lack of a clear analytical framework. Breyer seems to blend two different philosophical questions. Most students of the Constitution learn that there are two different questions of importance considered when trying to discover why a Justice decides a case a certain way. One question is how justices interpret statutes and constitutions. The second question is what the justice believes should be the role of the court. Should courts take an activist role in cases; or should they take a restraintist role and give great deference to other branches of government?

The first important question is how Justices interpret laws and constitutions. Interpretation was the focus of Breyer's book. However, he blends all originalists together when considering how they interpret constitutions and statutes. A better understanding of an originalist justice's opinion can be achieved when separating a justice into one of the forms rather than assuming all originalists interpret the same. The best framework to analyze an originalist justice's opinion comes from Paul Brest, former Dean of Stanford Law School, who wrote a 1980 article titled "The Misconceived Quest for Original Understanding" in the *Boston University Law Review*. He says originalism has three forms (Brest, 1980). The first originalism approach is strict textualism. A Justice who uses this approach considers the text of the statute or constitutional provision to be supreme. This Justice will try to interpret the law the way the writer or writers of the law would have interpreted it. As some things that need interpreting, like constitutions, may be incredibly old, a strict textualist may consult old dictionaries from when the law was written to assist in interpreting individual words. A strict textualist believes everything can be interpreted from a careful reading of the law. The second form is an internationalist. This originalist justice would do everything a strict textualist would do, but this justice believes there are times when that process will not lead to understanding. In such a case, a justice will need to examine other writings of the writer or Founder to be able to understand the writing in question. So, in the case of the Constitution, a justice might have to consult things like the Federalist Papers to provide meaning to the words or phrases. Finally, there are moderate originalists. These justices do everything the first two groups of originalism do, but in some cases, they still do not feel they have enough to apply the law or constitutional provision to their current case. This might occur when the problem the justice is trying to resolve is simply too new and something the Founders never would have anticipated. In this case, the justice would try to discover the morals, values, and goals of the law and apply those to the current case the way the Founder would have applied it had the Founder ever thought of the current problem (Brest, 1980). Originalism is always going back in time to when a writing was created to interpret it. The focus is always on the writer of the law, not some person reading it.

Breyer, under this approach, is clearly a non-originalist. He may read the text, but the text is not determinative. Also, he is not concerned about what the writer was trying to convey in the writing. He would focus on how a reader would interpret it. Breyer may look at some things that a moderate originalist looks at, but his focus is more on creating a current purpose for the law and interpreting the words to fulfill a new purpose, value, or moral. As he is creating, he would study the effect the law would have now and what consequences could come from different possible interpretations. A moderate originalist would not have all these concerns because this Justice would stop once the understanding of the law was achieved. Breyer would not like to be confined by laws that are too old or impossible to apply. The laws will be updated and applied with the interpretation that gives the best result chosen. This, he argues, will keep things like constitutions evolving and leave people with workable constitutions. However, originalists would argue that if the law is not

clear, then a legislature is the appropriate branch of government for the making of new laws that more radically modify old laws. The legislative function does not belong to the Courts. The Constitution contains an amendment process should it need to evolve or change from what the Framers wrote.

Breyer is a non-originalist in his dissents. In *FDA v. Brown & Williamson Tobacco Corp.* (2000). Breyer focused on the purpose of the law and interpreted the law to achieve that purpose. A cigarette became a drug delivery device so the FDA could regulate (*FDA v. Brown & Williamson Tobacco Corp.*, 2000). In *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022), Breyer did not confine his interpretation to the language in the statute but used purposes and value research to change the meaning *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022).

The second important question that affects how a judge decides a case is what that judge thinks the role of a Court should be. An activist judge believes the Courts are a third branch of government. Like other branches of government, they should be able to make or change the law through their decisions. They should be able to make policy as well as decide cases. Judges take an oath to do justice, and an activist judge will interpret the law to do what that judge considers to be justice, regardless of what the law says or requires. Justice William Douglas was a classic activist judge. He said, quoting Patrick Henry, “The Constitution is not an instrument for government to restrain the people, it is an instrument for the people to restrain the government” (Bookey, 2024). A restrainer would disagree. These judges believe the role of the Court is to simply resolve cases in front of the Court. If a law needs to be made or changed, it is the job of the legislature to do this. A classic restrainer was Justice Felix Frankfurter. He said, “As a member of the Court, I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard” (*West Virginia State Board of Education v. Barnette*, 1943).

Breyer is an activist. In *FDA v. Brown & Williamson Tobacco Corp.* (2000), specific language in applicable statutes that did not allow for FDA regulation of cigarettes was ignored. In *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022), Breyer not only rejected the new framework the Court adopted for a state to be able to regulate guns, but he even blurs the old tests Courts had been using. The old test was intermediate scrutiny, but Breyer described it in his book such that it looks like the Court was required to use strict scrutiny. For a law to be upheld under strict scrutiny, the court would have to find a compelling need for that law. That requires the legislative branch to prove the greatest need for a law. Under this approach, laws are usually struck down by the reviewing court. If intermediate scrutiny is used, a legislature only had to show an important or substantial need for their law. This is less than compelling, and more laws can be upheld. Most state regulations would fall under strict scrutiny analysis. This seems to show a judge that will change established rules simply to have his way.

T.R. van Geel (2008) suggests understanding the two questions of interpretation and role of the court separately, and then combining them. In *Understanding Supreme Court Opinions*, he recommends the use of a chart to see how justices could combine the answers of the two questions in their opinions (see table 1). By doing this, all four combinations are easily seen.

Table 1

Interpretation and role of the court together

	Originalists	Non-originalists
Activists	0	X
Restrainers	X	0

Van Geel (2008)

There certainly are activists who are non-originalists and restrainers who are originalists (X). Readers of Court opinions must also be aware of activists that are originalists and restrainers who are non-originalists (O). Breyer does not mention these terms until he writes about paradigm shifts. When he does, he does not make it clear that the question these terms address is the role of the Court. He might be excused here. When he clerked at the Supreme Court, the Court was activist, and in his years on the Rehnquist Court and Roberts Court, the Court was still activist. There was a shift from liberal to conservatism, but both groups were activists. The Court just shifted from liberal ideas and non-originalist interpretation to conservative ideas and textualist interpretation. Justice Felix Frankfurter left the Court before Breyer clerked. Frankfurter was a restrainer and could have provided more examples of restrainers for the chart.

Additional Thoughts on the Book

Many authors have written reviews on Breyer’s book (McGinnis, 2024). This reviewer will consider a couple more. If Breyer’s non-originalist approach were adopted by a majority on the Court, the change could invite mischief through unchecked judicial willfulness. Textualism provides boundaries and restraints. These are weakened when things like purpose, values, and morals can trump the meaning from the words. Breyer is an administrative law expert and must realize the mischief that could come if Justices read enabling acts or other statutes that delegate authority to an agency to do things. Agencies will feel free to broaden the agency’s scope through a broad interpretation of their duties. If the Court were to uphold agency overreach, there would be no ability to control an agency. Presidents have been turning to agencies to achieve policy goals when they fear Congress might not support them or they feel going to Congress will be too time-consuming. This could begin to chip away at our form of government, especially concepts like separation of powers and the concept of checks and balances. Breyer’s book, and this paper were written before the Court delivered its decision on whether to abandon the *Chevron* doctrine. Breyer probably did not want to weigh in on the *Chevron* Doctrine as the case was currently being decided in the Court. *Chevron* required Courts to give deference to agencies in their policy decisions and regulations (*Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 1984). The Court may be inclined to abandon this deference when agencies, without Congress’s approval, expand their scope to cover activities that were not in their original scope. If a statute allows the regulation of drugs, does that mean cigarettes? Does it mean the agency can regulate cigarettes when Congress specifically says in another piece of legislation that it may not? Breyer says it is the job of the Justices to find answers even when the law is ambiguous. Most of the Court does not accept this activism. The majority might, instead, wish to do nothing and send the whole issue back to Congress for a lawmaking resolution.

While covering many of the most contemporary cases whose issues result in heated passion and debate within society, it is surprising that this is a very dry and detached book. Breyer is a technocrat. He is a very meticulous and logical analyzer. If a teacher wants passion, the teacher should probably use *The Tempting of America* by former judge Robert Bork (1990). In the first half of the book, Bork reviews many cases to show readers where the Court went astray by not using strict textualism when interpreting (Bork, 1990). This is certainly interesting as he goes all the way back to *Marbury v. Madison* (1803). The second half of the book is an analysis of why he lost his confirmation hearing to get on the Court. Breyer, even in retirement, does not attack any of the other Justices. However, our society is filled with confrontation. In a way, a book that does not stir passions is refreshing. Not attacking fellow Justices is very classy and respectful.

Conclusion

Breyer concludes his book by explaining why he wrote it. He wrote this book for the same reason dissenters on a court write dissents: he hopes that in the future, Justices will conclude that textualism/originalism does not work well. He hopes future Justices will read his book and decide to try his different approach to interpretation (Breyer, 2024). The Court may be all textualists now, but it does not have to stay that way forever.

This teacher read this book hoping it could be used in class as an example of non-originalism. The 1960s and 1970s were a period of non-originalism and activists. The 1980s saw the arrival of Justice Antonin Scalia who advocated textualist originalism in his books and cases. Breyer represented an older period. When Kagan came on the Court, she was chosen for her liberal perspective. However, liberals can still be textualists. They would just be more non-originalist textualists. They may look at the language but find modern meanings to words, often under the pretext of providing meaning for the readers rather than what the writer intended. This could certainly lead to vastly different outcomes from originalist textualists. This interpretation would allow her to say, “We are all textualists now,” while including herself in the group of textualists. This explanation can explain why she followed but by excepting Breyer. He would not consider himself in any textualist category, originalist, or non-originalist. He would always move past the words into pragmatism such as values and consequences. If a teacher provides a framework, like the ones suggested above, to discuss how Justices interpret the Constitution and the role of the Court, this book could provide good contemporary reading for students.

References

- Bork, R. (1990). *The Tempting of America: The Political Seduction of the Law*. New York: Free Press. <https://digitalcommons.law.byu.edu/lawreview/vol1990/iss2/5/>
- Bookey, (2024), 30 Best William O. Douglas Quotes with Image. Bookey. <https://www.bookey.app/quote-author/william-o-douglas>
- Brest, P. (1980). The Misconceived Quest for Original Understanding. 60 *Boston University Law Review* 204-238. http://fs2.american.edu/dfagel/www/Class%20Readings/ALCReadings/Brest_MisconceivedQuest.pdf
- Breyer, S. (2024). *Reading the Constitution: Why I Chose Pragmatism Not Textualism*. Simon & Schuster. <https://www.simonandschuster.com/books/Reading-theConstitution/Stephen-Breyer/9781668021538>
- Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* 467 U.S. 837, 104 S.Ct. 2778 (1984). Justia. <https://supreme.justia.com/cases/federal/us/467/837/>
- District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783 (2008). Justia. <https://supreme.justia.com/cases/federal/us/554/570/>
- FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 120 S.Ct. 1291 (2000). Justia. <https://supreme.justia.com/cases/federal/us/529/120/>
- Federal Food, Drug, and Cosmetic Act* (1938). 21 U.S.C. § 301 et seq, Pub. Law 75-717. <https://www.law.cornell.edu/uscode/text/21/chapter-9>
- Hamilton, A., Madison, J., & Jay, J. (1787). *The Federalist papers*. Library of Congress. <https://guides.loc.gov/federalistpapers/full-text>
- McGinnis, J. (2024, March 21). Justice Breyer’s Problematic “Pragmatism.” *Law and Liberty*. <https://lawliberty.org/book-review/justice-breyers-problematic-pragmatism/#:~:text=Breyer%20makes%20unsupported%20claims%20about,as%20a%20justice%20were%20busts.>
- New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 142 S.Ct. 2111 (2022). <https://casetext.com/case/nys-rifle-pistol-assn-inc-v-bruen-1>
- Van Geel, T.R. (2008). *Understanding Supreme Court Opinions* (6th ed.). Routledge. https://www.routledge.com/Understanding-Supreme-Court-Opinions/Geel/p/book/9780205621613?gad_source=1&gclid

West Virginia State Board of Education v. Barnette, 319 U.S. 624, 63 S.Ct. 1178 (1943).
Constitution Center. <https://constitutioncenter.org/the-constitution/supreme-court-case-library/west-virginia-board-of-education-v-barnette>

White, A. (2024, March 29). 'Reading the Constitution' Review: The Pragmatic Stephen Breyer. Wall Street Journal. <https://www.wsj.com/arts-culture/books/reading-the-constitution-review-the-pragmatic-stephen-breyer-89c8bf95>

Resources For Further Reading

Bravin, J. (2024, June 9). *Supreme Court's Strains Intensify as Term's End Approaches*. Wall Street Journal. <https://www.wsj.com/us-news/law/supreme-courts-strains-intensify-as-terms-end-approaches-1d2b3d77#>

Cassell, P.G. (Ed.). (1986). *The Great Debate: Interpreting Our Written Constitution*. The Federalist Society. <https://fedsoc.org/commentary/publications/the-great-debate-interpreting-our-written-constitution>

Dwyer, D., See, P., & Herndon, S. (2024, May 1). *Justice Stephen Breyer's blunt Message to Supreme Court conservatives: 'Slow down'*. ABC News. <https://abcnews.go.com/Politics/justice-stephen-breyers-blunt-message-supreme-court-conservatives/story?id=109592986#:~:text=%22Slow%20down,.by%20former%20President%20Donald%20Trump.>

Faculty Scholarship, (2024, May 3). *Stephen Breyer for the Defense*. Harvard Law Bulletin. <https://hls.harvard.edu/today/stephen-breyer-for-the-defense/>

Hans, G.S. (2024, March 25). *Book Review: 'Reading the Constitution' When the Supreme Court is grinding it into dust, by Stephen Breyer*. Balls and Strikes. <https://www.google.com/search?client=safari&rls=en&q=Book+Review%3A+%E2%80%99Reading+the+Constitution%E2%80%99+When+the++++Supreme+Court+is+grinding+it+into+dust%2C+by+Stephen+Breyer.&ie=UTF-8&oe=UTF-8>

Maniloff, R. (2024, March 25). *Retired Justice Stephen Breyer discusses new book in Interview with ABA Journal*. ABA Journal. https://www.abajournal.com/web/article/retired-justice-stephen-breyer-discusses-his-new-book-in-interview-with-aba-journal#google_vignette

Menand, L. (2024, April 8). *Stephen Breyer to the Supreme Court majority: you're Doing it wrong*. The New Yorker. <https://www.newyorker.com/magazine/2024/04/15/reading-the-constitution-stephen-breyer-book-review>

Nawaz, A., Kotuby, S., & Gold, A. (2024, March 25). *Stephen Breyer on new book 'Reading the Constitution' and debate over how to interpret it*. PBS Newshour. <https://www.pbs.org/newshour/show/stephen-breyer-on-new-book-reading-the-constitution-and-debate-over-how-to-interpret-it>

- Rangel, I. (2024, April 5). *Purposes and consequences: A conversation with Justice Stephen Breyer*. SCOTUSblog. <https://www.scotusblog.com/2024/04/purposes-and-consequences-a-conversation-with-justice-stephen-breyer/>
- Re's Judicata. (2022, August 17). *We're All Textualists Now...When It Suits Us*. Re's Judicata. <https://richardresjudicata.wordpress.com/2022/08/17/were-all-textualists-now-when-being-so-suits-us/>
- Sathiyamoorthy, S. S. (2024). *Review: Reading the Constitution by Stephen Breyer*. The Hindustan Times. <https://www.hindustantimes.com/books/review-reading-the-constitution-by-stephen-breyer-101715340130872.html>
- Waldman, M. (2022, June 28). *Originalism Run Amok at the Supreme Court*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/analysis-opinion/originalism-run-amok-supreme-court>
- Washington Examiner, (2024, March 29). *Justice Breyer puts judges above the law*. The Washington Examiner. <https://www.washingtonexaminer.com/opinion/editorials/2941657/justice-breyer-puts-judges-above-the-law/>

Academic Service-Learning and Interdisciplinary Learning in Education

Dr. Susannah L. Brown

Florida Atlantic University
College of Education
Department of Curriculum and Instruction

Author Note

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Correspondence concerning this article should be addressed to: Dr. Susannah L. Brown, Florida Atlantic University, College of Education, Department of Curriculum and Instruction, 777 Glades Road, Boca Raton, FL 33431 email address: sbrow118@fau.edu

Abstract

In this study, pre-service educators apply interdisciplinary approaches connecting Academic Service-Learning (ASL), visual art, social studies, and technology with immigration stories in the Scholastic Immigration Stories of Yesterday and Today (Scholastic, 2024). Teaching and learning strategies along with visual representations of immigration stories are shared to inspire educators when integrating content knowledge in unique ways to engage their students in complex topics of study.

Keywords: academic service-learning, interdisciplinary curriculum, immigration stories, visual art integration, social studies integration, science integration, technology integration

Academic Service-Learning, Interdisciplinary Learning, and Technology Integration in Education

Academic Service-Learning (ASL) in university courses combines community service and academic learning through critical reflection, enhancing students' understanding of societal issues and their roles as educators (Florida Atlantic University, 2024). In this paper, the researcher explores how ASL, integrated with visual art, social studies, and technology, fosters interdisciplinary learning among pre-service educators who are university students enrolled in a South Florida university teacher preparation program.

Research Context and Questions

The primary research question guiding this study is: How do pre-service educators apply interdisciplinary learning approaches connecting ASL, visual art, social studies, and technology through the study of immigration stories? This is further explored through K-12 lesson creation and artwork development by pre-service educators enrolled in an art education university course. All participants are undergraduate university students enrolled in an art education course.

Theoretical Framework

ASL is rooted in Dewey's (1938) experiential learning, emphasizing active engagement and reflection to bridge theory and practice. Kolb (1984) expanded on this with his experiential learning cycle, crucial in ASL for pre-service educators. Educators designing ASL curricula prioritize creating meaningful engagement to enhance content learning and address community needs, fostering connections to real-world experiences crucial for democratic participation (Dewey, 1938; Kolb, 1984; Wade & Saxe, 1996). These principles are foundational in ASL education, shaping environments that promote active engagement, reflection, and application in future teaching careers. Kolb (1984) extended Dewey's ideas to higher education, proposing that learning unfolds through transformative experiences where individuals actively create knowledge within an experiential learning cycle involving engagement, reflective observation, abstract conceptualization, and active experimentation. This cycle, particularly through reflective practices, is integral in ASL education for university students preparing for teaching careers. Integration of visual art, social studies, and technology aligns with Marshall's (2006, 2016) advocacy for art in education and the National Council for the Social Studies' (2017) emphasis on digital citizenship.

Visual art integration in educational curricula is widely recognized for cultivating creativity, critical thinking, active engagement, and problem-solving skills among K12 learners (Marshall, 2006; 2016). This approach often employs project-based learning methods when integrating art into subjects such as social studies and language arts (Marshall, 2005, 2016).

In an interdisciplinary curriculum, incorporating technology aims to develop digital skills and literacy, enabling individuals to effectively find, understand, evaluate, and apply information across diverse formats to tackle personal, professional, community, regional, social, and global challenges. Central to achieving high digital literacy is the cultivation of critical thinking skills (Burnett et al., 2014). Digital literacy encompasses the ability to access, utilize, and analyze digital texts and images, as well as create and share content (Burnett et al., 2014).

Social studies applications within an integrated curriculum serve to embed concepts such as democratic principles, civic engagement, and societal issues. Enhancing critical thinking, socio-emotional development, interpersonal skills, and information literacy through social studies enriches active learning engagement. Moreover, integrating technology into social studies education prepares students to be responsible citizens in today's digital age. Emphasizing digital citizenship in schools is crucial for equipping K12 students to navigate current and future challenges (National Council for the Social Studies, 2017).

Interdisciplinary Approach in ASL

Instructional Strategies for the Project

In a South Florida university course, pre-service educators explored immigration stories using an interdisciplinary approach. Students engaged in inquiry-based learning, including researching historical and current immigration events to understand their complexities and societal impacts. Pre-service educators participating in the project used technology tools like Screenpal for creating instructional videos and Sketches for visual representations, fostering creative and critical thinking skills. A variety of technological applications and programs were introduced to the participants for their use in the project (see Table 1).

Table 1

Selected Technology Tools

Task or Use	Website Link
Brainstorming/Concept Mapping (Bubbl)	bubbl.us
Drawing Applications for use on electronic devices (Inkist)	http://inkist-app.com/
Screen recorder for short videos (Screenpal)	https://screenpal.com/
Drawing Applications for use on electronic devices (Sketches)	https://tayasui.com/sketches/
Augmented Reality/QR code images (Thyng)	http://thyng.com/
Visual organization boards (Padlet)	https://padlet.com/
Image creation (Adobe Express)	https://new.express.adobe.com/
Artificial Intelligence (AI) Art Generator	https://www.wonder-ai.com/

Artistic Interpretations and Technology Use

University students selected immigration stories from Scholastic (2024) and utilized various media including digital photography, Adobe tools, AI art generators (Wonder, 2024), and traditional art materials to create visual representations of the immigration themes (see Figure 1).

Figure 1.

Fragile American Dream Illustration by Participant.



Each artwork was accompanied by reflective essays, deepening the university students' understanding of immigration issues and enhancing lesson plans that they created for K-12 instruction.

Integration of Social Studies and Digital Literacy

Social studies concepts such as civic engagement and global interconnectedness were embedded in the curriculum. Technology integration facilitated digital literacy, enabling students to critically assess and create digital content relevant to contemporary societal issues (Burnett et al., 2014).

Pedagogical Implications

ASL in teacher preparation programs not only enriches academic learning but also prepares future educators to engage K-12 students in meaningful ways. By integrating visual art, social studies, and technology, educators can effectively address diverse learning styles and foster

active citizenship among K-12 students (Marshall, 2005, 2016; National Council for the Social Studies, 2017).

Conclusion

The integration of ASL with visual art, social studies, and technology exemplifies an innovative pedagogical approach in teacher preparation within a university course. It equips pre-service educators with interdisciplinary skills to address complex societal issues through creative and reflective practices. This approach not only enhances academic learning but also cultivates empathy, critical thinking, and digital literacy essential for preparing students for an interconnected world. In conclusion, ASL provides a transformative learning experience for both university students and their future K-12 students, promoting civic engagement and interdisciplinary understanding through art, technology, and social studies integration.

References

- Burnett, C., Merchant, G., Pahl, K., & Rowsell, J. (2014). "The (im)materiality of literacy: The significance of subjectivity to new literacies research." *Discourse: Studies in the Cultural Politics of Education*, 35(1), 90-103.
- Dewey, J. (1938). *Experience and education*. Macmillan.
- Florida Atlantic University. (2024, July 15). *Academic Service-Learning (ASL)*. Florida Atlantic University. <https://www.fau.edu>
- Kolb, D. A. (1984). *Experiential learning: Experience as the source of learning and development*. Prentice-Hall.
- Marshall, J. D. (2005). "Connecting art learning with the social studies." *Art Education*, 58(3), 33-39.
- Marshall, J. D. (2016). *Connecting art to the world: Integrating art and social studies*. Teachers College Press.
- National Council for the Social Studies. (2017). *National curriculum standards for social studies: A framework for teaching, learning, and assessment*. <https://www.socialstudies.org/standards/framework>
- Scholastic. (2024, July 15). *Immigration Stories of Yesterday and Today*. Scholastic. <https://www.scholastic.com>
- Wonder. (July 15, 2024). *AI Art Generator*. Wonder. <https://www.wonder-ai.com>

Art Integration Engages Students

Michael Lewis, Ph.D.
Lynn University, Boca Raton, FL

Abstract

This study examines the engagement of first-year students at Lynn University in Florida with justice-related topics through art integration, involving seven volunteers who participated in qualitative research with informed consent. Utilizing action research methodology, data was collected via pre-and post-surveys, interviews, and student journals. Participants independently selected topics like reproductive rights, U.S. foreign conflicts, mental health, substance abuse, and environmental concerns, and learned about these issues while creating art. The findings indicated that participants' engagement was significantly influenced by their ability to reflect their identities—encompassing experiences, values, and beliefs—in their artwork and to convey messages or perspectives through their art.

Keywords: Art Integration, Engagement, Action Research, Intrinsic Motivation

Introduction

When viewing art, people frequently ask questions, such as what do the symbols presented mean, what societal issues are addressed, and does the viewer agree with the presented perspective? These inquiries create a dialogue between the viewer and the artwork, making additional commentary from the artist unnecessary. While art can be appreciated independently, understanding the creative process is crucial to understanding the whole work of art. This study investigates what artwork means to artists by exploring how the experiences and identities of participants influenced their artistic intentions and processes. This paper is about art integration with curriculum and includes a brief review of literature, a discussion of qualitative methodology, results, and findings.

Context

This paper was part of a larger study that examined the advantages of art integration in education. Initial experiences showed promising outcomes of art integration, leading to the action research project. Conducted at Lynn University, the study focused on first-year students learning through art integration in a humanities core course. It aimed to incorporate artwork into the curriculum and boost student engagement. Over four weeks, the course included art lessons, discussions on art appreciation, and hands-on art creation activities, culminating in student presentations of their final projects.

Literature

John Dewey (1859–1952) was a pivotal figure in advocating for art-based learning, emphasizing its role in education through works like *Art as Experience* (1934), where he critiqued traditional pedagogy and promoted more enriching educational practices. Dewey argued that aesthetic education fosters student expression and creativity, making learning more memorable (Dowell & Goering, 2018). He believed art is essential to human existence and enhances our appreciation of beauty (Dewey & Hinchey, 2019, p. 39). Elliot Eisner's theories on cognitive pluralism (Eisner, 1982) and artistic mindsets (Eisner, 2002) support art education, suggesting that art promotes deep emotional engagement and immersion (Eisner, 2002, p. 11). Both Dewey and Eisner claimed that art is a powerful means to advocate for social change, which could aim at societal transformation instead of reproduction.

Methodology

This study used an action research design with qualitative methods to attain rich data that offers deep insights into participants' experiences. In Vivo coding was used to capture these perspectives, enhancing both the Teacher-Researcher's professional growth and the host institution's goals. Herr and Anderson (2015) emphasize the importance of establishing quality criteria for action research, including dialogic validity and democratic validity, which were adhered to throughout the study. Participants were recruited based on age and enrollment status, promoting a non-biased approach. Data sources consisted of pre-surveys, post-surveys, journals, interviews, observations, and student work documentation, utilizing six diverse sources for validation (May, 1993). However, two primary limitations were noted: the four-week course duration, which restricted engagement, and the overlap between artistic mindsets and metacognition, complicating data analysis.

Findings

The data analysis found that participants experienced significant engagement with art integration, particularly through the works of Participant One and Participant Two. Their artworks, depicted in Figures 1 and 2 below, are accompanied by quotes that express their personal connections to their chosen topics.

In their first journal entry, Participant One focused on "imperialism," motivated by concerns regarding U.S. foreign policy. They asserted that "imperialism is still an ongoing thing" (Interview), criticizing the injustices associated with these invasions, particularly in the Middle East, and claiming that the reasons given for these conflicts are disingenuous. Participant One emphasized that "profit" and "resources" drive these wars (Interview). Their artistic approach aimed to illuminate and critique these perceived global injustices, employing irony and satire to convey their message. The analysis of their work reveals a deep personal connection to the themes of imperialism and war, showcasing how art can serve as a powerful medium for social commentary and personal expression.

Figure 1
Participant One's Art



American patriotism is represented through symbols, like flags, children in parades, and fireworks, celebrating national ideals. However, this contrasts with the prisoner, who symbolizes troubling aspects of U.S. foreign policy and the normalization of imperialism. Participant One stated in their presentation, “When we celebrate this country or like celebrate Independence Day, we also unconsciously celebrate this kind of stuff,” referring to the prisoner. Their identity played a crucial role in shaping their topic and artwork, as they explained in the interview.

Being a brown person, especially because I was born a month after the U.S. invaded Iraq in 2003. So, it is something I have grown up with. I have seen how people overseas are struggling, especially citizens, and I have seen it here, and experienced it firsthand sometimes. Like how people perceive brown people. I’m Indian, I’m not even middle Eastern, but people in America, they don’t really know the difference. So even though I don’t have a direct connection, it still felt like something personal. (Interview)

Participant One engaged deeply with their artwork, which effectively communicated significant messages. They viewed their creation as a form of advocacy, fostering a strong connection with the piece. During the interview, Participant One stated:

So, I really wanted people to see this stuff because when you watch the news, they show footage, or they have overseas correspondents, but how often does that have an emotional impact with people? People are just so used to seeing that stuff because it’s broadcasted so often. So, people are desensitized to it. I wanted to create a contrast between that and what we really believe. That’s why there are all these fireworks and kids holding flags cause I’m like, ‘alright this is what we are taught, and this is what is really going on’. (Interview)

Also, Participant One described their motivation by saying, “my motivation behind wanting to do all of it was intrinsic...So, there was that intrinsic part to it because I got something that I want people to understand” (Interview).

In Participant Two’s interview, they expressed a desire to explore “sensitive topics” in their artwork, particularly focusing on suicide. They conveyed their goal to make the audience “understand just how bad this issue is” using negative, somber, and serious elements (Journal).

Participant Two stated, “I want my audience to feel both emotions of anger and sadness when they look at my art” (Journal).

Figure 2

Participant Two's Art



Like Participant One, Participant Two’s identity and experiences significantly shaped their topic choice and artwork conceptualization. In their persuasive presentation, Participant Two disclosed that they chose to address suicide due to their “personal experiences with deaths in the family and some close friends.” This subject profoundly resonated with them, eliciting a “really passionate” response. Participant Two noted, “Me myself have gone through like depression and stuff like that, and anxiety. I still go through it now...I incorporated more of my personal experience into it and others’ as well from the people I have talked to” (Interview).

Participant Two was also motivated to emphasize the gravitas of suicide and its prevalence in the United States through their art. They expressed their desire for their artwork to convey a powerful message about this critical issue.

Since I have some personal experience to this particular issue, I have strong opinions about it, and I will find a way to express my perspective in my art. I want them to know how damaging this issue really is and I want to spread awareness. I want them to gain strong opinions about this particular issue. (Journal)

Discussion

Two key factors of art integration increased engagement with justice topics, which were participants' capacity to infuse their identities into their artwork and their ability to convey messages through art. Allowing participants to choose significant topics fostered a stronger emotional connection to the art integration process. Increasing personal relevance deepened participants' connections, making art a meaningful context for engagement. Additionally, the ability to communicate a message through artistic expression emerged as an effective strategy for enhancing engagement. The study's results align with existing literature, with Dewey (1934) emphasizing art's potential to enrich educational experiences and Eisner (2002) noting the unique engagement art offers in the creative process and its outcomes. Participants enjoyed the art integration process, positively influencing their engagement with course material through art.

References

- Dewey, J. (1934). *Art as experience*. Minton, Balch & Company.
- Dewey, J., & Hinchey, P. H. (2019). Moral principles in education and my pedagogic creed. In *Timely classics in education* (Vol. 3). Myers Education Press.
- Dowell, M.-M. S., & Goering, C. Z. (2018). Editors' introduction: On the promise and possibilities of arts integration in education. *Pedagogies*, 13(2), 85–91. <https://doi.org/10.1080/1554480X.2018.1449180>
- Herr, K., & Anderson, G. L. (2015). *The action research dissertation: A guide for students and faculty* (2nd ed.). SAGE.
- May, W. T. (1993). “Teachers-as-Researchers” or action research: What is it, and what good is it for art education? *Studies in Art Education*, 34(2), 114-126. <https://doi.org/10.2307/1320448>
- Saldaña, J. (2016). *The coding manual for qualitative researchers* (3rd ed.). SAGE.

The Role of Pilot Studies in a Doctoral Qualitative Research Methodology Course

Yvonne Skoretz, EdD, Michelle Ferrell, Med, Gretchen Bagley, Med, Lisa Hoskins, MAT

Marshall University

Abstract

This paper explored the role of pilot studies in a doctoral-level qualitative research methodology course, aiming to facilitate the application of theoretical knowledge to practical qualitative research skills. Doctoral students identified the obstacles encountered and insights gained from conducting their own pilot studies, offering valuable perspectives on the learning journey. Recommended course improvements included ensuring pre-requisite courses were completed to develop foundational research skills, adding multimedia to further inform research skills in addition to text-based course resources, adding a parallel study with whole group exercises using a shared dataset to increase confidence, and extending the pilot study beyond instructional purposes with an opportunity for scholarly work through obtaining IRB approval in the planning stages of the study.

Keywords: pilot study; qualitative research methodology; doctoral program

A pilot study is often referred to as a preliminary or feasibility study and is essential for testing instruments and sampling procedures on a small scale before full implementation of a larger-scale study (Thabane et al., 2010). According to Malmqvist et al. (2019), pilot studies were particularly valuable for novice qualitative researchers, as they offered opportunities to anticipate and address challenges while researchers gained confidence in data collection methods and analysis. When used as part of doctoral education, pilot studies engaged learners in practical research applications, deepened their expertise (Kezar, 2000) and prepared them for dissertation research (Hallman et al., 2019).

Literature Review

Pilot studies in the social sciences primarily focused on assessing the feasibility of conducting a study, including practical aspects such as participant recruitment, pre-testing research instruments, and data management (Malmqvist et al., 2019; Thabane et al., 2010). By piloting a study, researchers gained valuable information to evaluate whether the research design was realistic (Gudmundsdottie & Brock-Utine, 2010). As data were collected using tested research instruments, logistical problems became apparent using the proposed methods, thereby prompting adjustments to the research design (Gudmundsdottie & Brock-Utine, 2010). Despite their significance in refining research methods and instruments, the authors stated that pilot studies were often underreported in literature primarily because of their emphasis on methodology rather than findings (Malmqvist et al., 2019; Thabane et al., 2010).

Wray et al. (2017) highlighted that pilot studies not only refine research methods and

instruments but also provide researchers with an opportunity for self-reflection. By testing effective recruitment strategies and ensuring data collection tools yield the necessary responses, researchers gained valuable insights into their strengths and areas for improvement. This reflective process enhanced competence and confidence in conducting subsequent research activities (Wray et al, 2017). Hallman et al. (2019) emphasized that mentoring doctoral students in conducting a pilot study provided additional benefit in preparing students for future roles in academia. Conducting a pilot study deepened knowledge of the research process and enhanced capacity to apply theory to practice (Hallman et al., 2019).

The literature cited many benefits of conducting qualitative pilot studies for doctoral students. Pratt and Yeziarski (2018) contended that conducting and reporting pilot studies enhanced the validity and reliability of subsequent research as data collection tools were refined, thereby improving researcher expertise. Wray et al. (2017) observed that doctoral students' competence and confidence increased as they conducted successive interviews during pilot studies. As doctoral student researchers reflected on the effectiveness of the research methods, the benefits and challenges of the approach were evaluated as they considered future research designs (Wray et al, 2017). Van Teijlingen & Hundley (2001) stated that qualitative pilot studies were beneficial for assessing the appropriateness of research topics for larger-scale investigations. Engaging in a pilot study before dissertation research empowered students to both generate and consume research knowledge, thereby advancing their knowledge base and comprehension of the literature (Hallman et al., 2019). As doctoral students implemented several revisions, reflective analysis led to specific improvements, including refining the literature review to guide their study, modifying data collection methods, fine-tuning instruments, and re-evaluating data analysis approaches (Hallman et al., 2019). Through the process of conducting pilot studies, doctoral students enhanced essential attributes for qualitative inquiry, including organization, perseverance, dealing with ambiguity, flexibility, creativity, and rigorous ethics (Saldana, 2013).

Building upon the literature, this paper focused on the experiences of three doctoral students in Marshall University's Education Doctoral Program in Curriculum and Instruction. These students engaged in pilot studies as part of the *Qualitative Research in Education* course, aimed at applying theoretical concepts to real-world research scenarios. Such hands-on experience not only enhanced their understanding of qualitative methodologies but also equipped doctoral students with the necessary skills to navigate the complexities of data collection, analysis, and interpretation. This paper contributes to the existing literature on pilot studies in qualitative research courses in an education doctoral program to extend current understanding.

Background on Course in Qualitative Research in Education

Doctoral students conducted their pilot study as part of the course *Qualitative Research in Education*, an asynchronous, online course with no virtual course meetings, in the Curriculum and Instruction Doctoral Program at Marshall University. The course explored the study of qualitative research methods to understand contemporary qualitative research epistemologies. Additionally, the course activities sought to develop expertise in qualitative research strategies including participant observation, interviewing and inductive content analysis of data through conducting a pilot study on a research interest.

The course was organized into four units: Theory of Qualitative Research and Ethical Conduct; Participant Observations; Planning and Conducting Interviews; and Basic Qualitative Analysis and Interpretation. Each unit included modules that focused on building theoretical understanding with opportunities for practical application, including practicing participant observations, interviewing as data collection methods, and coding and thematic analysis. A pilot study template scaffolded the process of conducting a pilot study to structure the submission of the final report in the course. Course activities supported the successful completion of the pilot study, including reading responses, fieldwork, discussion boards, formal report, and reflection. Descriptions of the course activities are provided below.

Reading response activities played a critical role in connecting the theory to the practice of conducting qualitative research. For example, as students read about coding, they critically considered which coding methods most closely aligned with their nature of the research questions. This process allowed students to articulate internal thinking processes and uncover new connections (Saldana, 2013). Reading response activities also provided another opportunity to assess knowledge of the ethical principles and guidelines for research involving human subjects, in addition to certification through the CITI exam (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 2018). Through these activities, students applied ethical concepts directly to their study, discussing issues of obtaining informed consent from participants, ensuring confidentiality and anonymity prior to entering the data collection phase of the study. Students responded to the readings as each module was introduced, covering topics such as theory of qualitative research, conducting participant observations, conducting interviews, and qualitative analysis and interpretation.

Fieldwork involved conducting a minimum of two participant observations and two one-on-one interviews to gather data. After obtaining informed consent, students submitted field notes and transcriptions, including observer comments. With each submission, students reflected on their data collection experience and identified modifications for the next fieldwork experience. During the data analysis phase of the research process, students submitted a code book with focused reflections on the thematic analysis of coded data collected during the pilot study, emphasizing reflexivity. Reflexivity, or the ability to reflect critically on oneself, was essential for developing proficiency as a skilled qualitative researcher (Bradbury-Jones, 2007). Since researchers filtered how data were gathered, analyzed, and reported based on their own perspectives and worldviews (Sutton & Austin, 2015), reflexive thought was essential for minimizing bias and subjectivity as it informed the knowledge construction process of the study (Narayanasamy, 2015). Throughout the course, students were encouraged to practice reflexivity by critically examining their biases and assumptions during data collection and analysis. For example, while conducting participant observations and interviews for their pilot studies, students included observer comments to document their personal reactions, thoughts, and emotions through these interactions with study participants.

Discussion boards provided a space for students to exchange feedback on their pilot studies, addressing topics such as developing open-ended interview questions that have the most potential to yield rich data and unclear concepts, referred to as “muddiest points”, related to theory and practice of conducting qualitative research. Muddiest Points is a technique used to gather informal student feedback regarding their understanding of course content, enabling

prompt resolution of conceptual issues as they arise when shared in a learning community (Angelo & Cross, 1993). The muddiest point discussions provided a forum where reflexive thoughts were shared and students challenged one another's assumptions and perspectives, fostering a deeper understanding of the complexities involved in qualitative research. One instance of this was a discussion on how personal biases influenced the coding process and the importance of considering alternative perspectives as they assigned meaning to the data. As students discussed how bias influenced their data collection and analysis, reflexivity was enhanced through these iterative conversations. Table 1 provides an example of the prompts used in these discussion postings.

A formal report was submitted as the culmination of each student's pilot study efforts throughout the semester. Various draft sections - including the Abstract, Introduction, Literature Review, Statement of the Problem, Methods, Results, Discussion, Modifications to Study Based on Pilot Results, References, and Appendices - were submitted as weekly assignments for evaluation. Feedback played a significant role in refining the pilot study. For example, initial drafts of sections such as the literature review, methods, and data analysis were revised based on constructive feedback for the final report. Carless et al. (2023) argued that feedback acts as a catalyst for socialization in doctoral education, fostering students' engagement in the doctoral process through constructive comments, interactions, and follow-up.

A reflection on the experience of conducting the pilot study prompted students to reflect on their course experiences, aligned with Dewey's (1933) assertion that "We do not learn from experience. We learn from reflecting on experience" (p. 78). Reflection led to consolidating their understanding and deriving meaningful insights from their learning experiences (Denton, 2011). According to Ash & Clayton (2009), reflection facilitated the generation, deepening, and documentation of learning, which enabled students to articulate their newfound understanding as they reflected on the changes in their thinking regarding qualitative research. Students were prompted to provide a scholarly reflection describing areas of growth where understanding or skills have evolved and areas where additional growth was needed identifying specific aspects of learning or practice that required further development. Additionally, the reflection provided constructive feedback to offer insights into what worked well in the course and suggested improvements.

Pilot Studies

Three doctoral student researchers (referred to as "researchers" going forth) conducted a pilot study as part of the *Qualitative Research in Education* course. Each researcher explored a unique research interest and applied theoretical knowledge to practical qualitative research skills. This section highlights challenges encountered and insights gained by these researchers during their pilot studies.

Pilot Study One: "Perceptions of Teachers on Key Motivators for Autonomously Seeking Professional Development" conducted by Michelle Ferrell

Pilot study one sought to gain insight into the perceptions of educators' key motivators for seeking professional development (PD). Questions explored in this study included: What key motivators play a role in educators' decisions to seek and attend professional development

autonomously? What barriers exist that prevent educators from seeking and attending professional development? How does the perspective on the professional development of a novice educator differ from the perspective of an expert teacher? The topic of teacher perceptions of attending professional development emerged from the student's participation in a week-long professional development training that coincided with the Qualitative Research course, providing access to a convenience sample for conducting participant observations and interviews. While conducting focused field observations, an idea for refining the study surfaced when the student noted the diverse population of secondary ELA educators through an ice-breaker activity revealing years of teaching experience. Reflecting on the previously completed literature review, she noticed a lack of population comparisons between novice and experienced teachers. Finding this gap in the literature helped the researcher to narrow and focus her pilot study on comparing these two groups' perceptions of professional development.

Pilot Study Two: Secondary trauma and compassion fatigue: The effects of student trauma on classroom teachers conducted by Gretchen Bagley

Pilot Study Two explored secondary trauma and compassion fatigue in special education teachers in an urban district. This researcher investigated the impact of student trauma on teachers who worked with the students after seeing the effects within her own practice. Guiding questions in this study included: How can self-care assist teachers in managing stress? Who is at risk for secondary trauma? Why are teachers leaving the profession? The topic for this study was chosen because of the researcher's interest in trauma and how it impacted teaching and learning.

Pilot Study Three: Not for Everyone: A Study of the Resiliency Traits of Long-Term Juvenile Detention Center Teachers conducted by Lisa Hoskins

Pilot Study Three examined the resilience traits of teachers who chose to remain as instructors within a juvenile detention center. While enrolled in *Qualitative Research in Education*, and serving as the juvenile detention center school's principal, the researcher faced the ongoing issue of filling vacant teaching positions in juvenile detention schools. This phenomenological study compared the characteristics of teachers who stay to those who leave. The study sought to answer the question, "What traits do teachers possess and what processes are in place within programs that sustain teachers remaining in instructional positions beyond five years?" The researcher conducted two teacher interviews and two classroom teacher observations within a juvenile detention school.

Following completing the pilot study in the Qualitative Research in Education course, the researcher aimed to publish the findings from Pilot Study Three. Because the initial study was conducted for instructional purposes, there was a need to repeat the study to gain IRB approval for publication within the subsequent Writing for Publication course. However, since conducting the initial pilot study, a retirement affected the researcher's access to the detention center, necessitating a redesign of the study. In the redesigned study, the researcher was unable to replicate the participant observations conducted in the initial study, but she was able to complete five interviews from juvenile detention center teachers to address the revised research question: What resilience traits, if any, support teachers work in juvenile detention centers?

Obstacles Encountered

Each doctoral student researcher encountered obstacles during the qualitative research pilot study. Several obstacles were related to a lack of basic qualitative research knowledge or a lack of available resources. Other challenges included the time constraints associated with the development of the initial pilot studies and the time-intensive adjustments needed to prepare the pilot study for publication.

Lack of Qualitative Research Knowledge

The researcher of pilot study one struggled with the interview and coding phases. After conducting the first of two interviews, she noticed that her commentary and mannerisms after the interviewee answered questions could have impacted how subsequent questions were answered. For example, she kept nodding her head in agreement and sometimes shared her own relatable experiences. Later, she felt her actions could have swayed the interviewee to alter responses more aligned with the interviewer's beliefs than their own, skewing the data. Coding procedures also posed a problem for this student. The coding process was a new concept that created feelings of uncertainty about how to organize keywords from the data and how to identify emerging themes. Broad themes for the data were created and recreated numerous times before she finally settled on a few workable themes for data analysis.

Similarly, the researcher of pilot study two felt overwhelmed by the prospect of taking raw data and coding it into usable data for study purposes. She had never conducted interviews in this manner nor attempted to consolidate the information into usable data. Coding felt like a foreign language.

The researcher of pilot study three experienced similar difficulties regarding her initial experiences with data collection and coding. She felt inauthentic because she lacked confidence. When asked what she found least clear or most confusing and what her plan was to address this "muddiest point" to continue making progress, she said,

I am struggling with subjectivity. Am I doing this right? Am I seeing what I should from the data? I fear having a preconceived viewpoint and am apprehensive about bringing too much of my beliefs to the data. I need to go back and spend more time with the reference materials and examine reliability and validity. I want to feel more confident that I am accurately analyzing the data.

Lack of Available Resources

Resource limitations were another challenge. The Qualitative Research in Education course required two observations and two interviews for data collection. However, the researcher of pilot study two struggled because groups of teachers appropriate for her study were unavailable during the summer months when she completed her pilot study. As a result, and after a discussion with the professor, this study used recorded videos as an alternative to in-person observations. "This process has been very challenging. Because of my topic, my location, and the availability of groups locally...it is hard to get a good description of anything when you only see one visual perspective of the presentation," she explained. While the observations were done in a different setting, the outcome was still worthwhile. The researcher was able to learn how to actively observe and take notes during the observation even while using a video instead of sitting

in an actual classroom. She was able to note the setting of the video, the interaction of the content producer with the unseen audience, and any question-and-answer sessions that took place during the video, utilizing techniques learned from the course text.

Additionally, the researcher in pilot study two was concerned about potential bias due to her small sample size and the fact that she knew both interview subjects personally. She felt her results could be skewed because of the lack of neutral interview subjects during the summer months. She was personally aware that both interviewees had experienced secondary trauma and compassion fatigue and were struggling to continue in the profession.

Other Obstacles

Other obstacles included time and IRB approval. Learning about the theory of qualitative research methods, designing and conducting a pilot study, and presenting the findings in a formal report within the span of one semester was a significant challenge. The researcher in pilot study one struggled to find enough time to adequately review the literature.

First, my searches were too narrow on my topic, and I was not hitting on valuable articles. After changing the wording, however, I began to find related information.

Secondly, I had to read each article, find commonalities, and synthesize the information, which I later placed in a self-created matrix chart. This process took more time than anticipated, so my literature review felt rushed.

The initial pilot studies were conducted in the Qualitative Research in Education course without IRB approval, and because researcher three desired to submit her study for publication, significant challenges were encountered. The first challenge required a redesign of the pilot to modify the data collection methods and to submit for IRB approval. Second, new data were collected and analyzed while adhering to a tight deadline for the researcher to meet their submission deadlines for their journal submissions.

Insights Gained

While reflecting on their pilot study experiences, while there were obstacles encountered, each doctoral student shared some of their most significant takeaways and insights, emphasizing increased knowledge of qualitative research methodology and increased confidence in conducting research.

Increased Knowledge

Reading about qualitative research methods versus applying the concepts forced researchers to dig deeper and go beyond the surface of their learning. The researcher of pilot study one communicated how the application of the different stages of the research process required her to regularly refer to the concepts learned throughout the course text, reinforcing her understanding of those concepts. Additionally, when difficulties with comprehension of certain concepts such as coding data occurred, she consulted outside resources to improve her understanding. Pilot study three researcher found that her knowledge increased because of adjusting the study and preparing it for publication. Her understanding of qualitative research improved through the process of shifting the focus from a phenomenological study to one that examined teachers' perspectives using a priori codes. Adopting the framework provided a more

systematic and thorough analysis of teacher resilience and helped her better understand qualitative research methods. When asked about the process used to lead to emergent themes, she said:

Going forward, I will be very thankful that this class is structured as it is. I read the text and think I comprehend what I read; however, I do not have an understanding when it comes to practice. I need to do the activity to grasp the concept, and I believe I am learning from the reflection. I can see themes coming; however, understanding this aspect now makes me, I believe, better prepared to write interview questions and establish a foundation for the project. Learning by doing truly is a more effective instructional strategy.

Research Confidence

Overall, researchers reported a boost in confidence in their research abilities. The researcher of pilot study one felt the application of qualitative methods was beneficial for her because it provided needed practice that was relevant for a future goal – writing a dissertation. After completing the pilot study and overcoming the various challenges, she felt accomplished and more prepared to conduct research on a larger scale.

Understanding the organization of qualitative research was helpful for me. I now know that writing qualitative research does not happen from beginning to end. For example, I often had to go back and add information to my methods and participant's section. I also did not realize that the abstract would be written last. Of course, it makes complete sense to me now why it is written in that particular order.

Adding to her reflection, this researcher compared the development of the pilot study to a puzzle, where each piece of the puzzle is a mystery, but then is grouped by distinctive features, pieced together, and slowly added to until the complete picture is revealed.

The researcher of pilot study three stated that the confidence gained from this course enhanced her belief that she was better prepared for dissertation work. The productive struggle from the initial pilot study through preparation for publication resulted in an enhanced understanding of structured analysis. Adapting the study for publication highlighted the need for flexibility and the importance of pilot studies for doctoral student development. This process enabled the researcher to refine her methods and adapt to unforeseen challenges, strengthening her research skills.

The challenge of completing the pilot studies allowed the researchers to build resilience as they worked through the difficult portions of the coursework. The students worked through their failures, which allowed them to gain knowledge about the process while growing as both students and researchers. Working through the challenges allowed them to develop problem-solving skills and fostered creative and critical thinking. As the researchers persevered in their research, resilience helped them maintain motivation and passion for their research.

Discussion

The pilot studies conducted as part of the Qualitative Research in Education course highlighted the practical benefits of pilot studies in qualitative research. Malmqvist et al. (2019) emphasized that pilot studies allow researchers to anticipate and address challenges, while Gudmundsdottir & Brock-Utine (2010) noted their role in evaluating the feasibility of research designs. This was evident as the researcher of pilot study one refined her focus based on a literature gap she discovered, the researcher of pilot study two adapted her methods due to participant availability issues during the summer months, and the researcher of pilot study three adjusted her study for IRB approval and publication after initial challenges with access to participants. These examples demonstrated the adaptability and critical evaluation fostered by pilot studies, enhancing the validity and reliability of their studies.

Reflective practice emerged as a significant outcome, enhancing researchers' competence and confidence, as emphasized by Wray et al. (2017). For instance, the researcher of pilot study one reflected on her iterative coding process and her interview techniques, leading to refined research methods and a better approach to avoid leading questions. Similarly, the researcher of pilot study three adapted her work for publication, underscoring the importance of reflection in research refinement. Additionally, the researcher of pilot study two, using recorded videos due to participant unavailability, learned to actively observe and take detailed notes in non-traditional settings. These reflections fostered essential qualitative inquiry attributes—organization, perseverance, tolerance for ambiguity, flexibility, creativity, and rigorous ethics (Saldana, 2013). This hands-on experience not only deepened their expertise but also prepared them for future dissertation work, as reported by Hallman et al. (2019) and Kezar (2000).

Conclusion

Pilot studies served a significant role in a doctoral qualitative research course as researchers applied theory to practical application in qualitative research. Despite challenges encountered such as limited participant availability and navigating the complexities of qualitative research, these studies provided valuable insights into research processes, readiness for dissertation research, and most importantly, contribution to the knowledge base through scholarly work.

The next steps include enhancements in the *Qualitative Research in Education* course by implementing the following recommendations. First, ensuring that prerequisite courses in foundational research skills are completed prior to conducting a pilot study can better equip students for potential challenges. Second, integrating multimedia resources in an online course alongside text-based materials can enrich learning and provide diverse perspectives on research methodologies, such as coding techniques. Additionally, incorporating whole-group exercises using shared datasets can improve confidence and collaborative learning between course participants. Last, extending the pilot study beyond instructional purposes to obtain IRB approval early in the planning stages can better prepare researchers for the ethical and procedural aspects of conducting research. By implementing these improvements, the course can empower future researchers, ensuring they are prepared to contribute to the field of education through qualitative inquiry.

References

- Angelo, T., & Cross, K. (1993). *Classroom assessment techniques: A handbook for collegeteachers*. Jossey-Bass.
- Ash, S. & Clayton, P. (2009). Generating, deepening, and documenting learning: The power of critical reflection in applied learning. *Journal of Applied Learning in Higher Education*, 1, 25-48.
- Bradbury-Jones, C. (2007). Enhancing rigor in qualitative health research: Exploring subjectivity through Peshkin's I's. *Journal of Advanced Nursing*, 59(3), 290–298.
- Carless, D., Jung, J., & Li, Y. (2023). Feedback as socialization in doctoral education: Towards the enactment of authentic feedback. *Studies in Higher Education*, 49(4), 534-545.
- Denton, D. (2011). Reflection and learning: Characteristics, obstacles, and implications. *Educational Philosophy and Theory*, 43(8), 838-852.
- Dewey, J. (1933). *How we think: A restatement of the relation of reflective thinking to the educative process*. D.C. Heath & Co Publishers.
- Gudmundsdottir, G., & Brock-Utne, B. (2010). An exploration of the importance of piloting and access as action research. *Educational Action Research*, 18(3), 359-372.
- Hallman, H. L., Albright, Z. L., Jenab, F. H., Rosenow, J. A. W., Naster, J., & Fleck, L. (2019). The pilot study as a component of the education doctorate: Learning from an action research study. *Learning Communities Journal*, 11, 107-124.
- Kezar, A. (2000). The importance of pilot studies: Beginning the hermeneutic circle. *Research in Higher Education*, 41(3), 385-400.
- Malmqvist, J., Hellberg, K., Möllås, G., Rose, R., & Shevlin, M. (2019). Conducting the pilot study: A neglected part of the research process? Methodological findings supporting the importance of piloting in qualitative research studies. *International Journal of Qualitative Methods*, 18, 1-11. <https://doi.org/10.1177/1609406919878341>
- Mansfield, C. F., Beltman, S., Price, A., & McConney, A. (2012). "don't sweat the small stuff:" understanding teacher resilience at the chalkface. *Teaching and Teacher Education*, 28(3), 357-367. <https://doi.org/10.1016/j.tate.2011.11.001>
- Narayanasamy, A. (2015). Reflexive account of unintended outcomes from spiritual care qualitative research. *Journal of Research in Nursing*, 20(3), 234–248. <https://doi.org/10.1177/1744987115578185>
- Pratt, J. M., & Yeziarski, E. J. (2018). A novel qualitative method to improve access, elicitation, and sample diversification for enhanced transferability applied to studying chemistry outreach. *Chemistry Education Research and Practice*, 19, 410–430.

doi:10.1039/c7rp00200a

Saldana, J. (2013). *The coding manual for qualitative researchers*. Sage Publications

Sutton J., & Austin, Z. (2015). Qualitative research: Data collection, analysis, and management. *Can J Hosp Pharm*, 68(3):226-31. doi: 10.4212/cjhp.v68i3.1456. PMID: 26157184; PMCID: PMC4485510.

Thabane, L., Ma, J., Chu, R., Cheng, J., Ismaila, A., Rios, L, Robson, R., Thabane, M., Giangregorio, L., & Goldsmith, C. (2010). A tutorial on pilot studies: The what, why and how. *BMC Medical Research Methodology*, 23(1), 59. doi: 10.1186/s12874-023-01880-1.

National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. (2018). *Read the Belmont Report*. U.S. Department of Health and Human Services. <https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/read-the-belmont-report/index.html#xethical>

van Teijlingen, E. & Hundley, V. (2001). The importance of pilot studies. *Social Research Update, Winter*, ISSN: 1360-7898.

Watson, F. (2016). Lessons learned on approaches to data collection and analysis from a pilot study. *Nurse Research*, 24(1), 32-36. <https://pubmed.ncbi.nlm.nih.gov/27641706/>

Wray, J. Archibong, U, & Walton, S. (2017). Why undertake a pilot in a qualitative study? Lessons learned to promote success. *Nurse Research*, 24(3), 31-35. <https://pubmed.ncbi.nlm.nih.gov/28102797/>

Table 1

Discussion Prompt Examples

Research Topic	Discussion Prompt	Response Prompt
Writing the Introduction and Methods Section	<p>This week focuses on submitting a reading response to our course readings and a first draft of your Introduction and Methods sections in your Pilot Study Template. What was the muddiest point in completing these assignments? What did you find least clear or most confusing? What will be your plan to address this muddiest point to continue forward progress?</p>	<p>Focus your response on broadening your understanding of introducing your research problem and communicating research methods in a study.</p>
Conducting Participant Observations	<p>This week, you completed your first participant observation and wrote your field notes. Provide a paragraph reflecting on your experience. What went well? How can you expand on aspects of the participant observation you feel were good?</p> <ul style="list-style-type: none">• What do you need to improve on? What was harder than you thought?• Overall, what are your thoughts moving into your second observation? What will you do again? How will you modify your approach?	<p>Focus your response on broadening your understanding of conducting participant observations and writing field notes.</p>
Interviewing	<p>This week, you completed your first interview and wrote your interview transcript. Provide a paragraph reflecting on your experience. What went well? How can you expand on aspects of the interview you feel were good? Which questions elicited rich, descriptive responses and which did not? Why do you think that was?</p> <ul style="list-style-type: none">• What do you need to improve on? What was harder than you thought?• Overall, what are your thoughts moving into your second interview? What will you do again? How will you modify your approach?	<p>Focus your response on broadening your understanding of conducting interviews.</p>

Completing
Coding and
Thematic
Analysis

This week focuses on coding and thematic analysis. As you completed the course readings and have begun to actively code and index your data (observations and interview transcripts) with creating a detailed codebook with the list of codes and their definitions, what was the muddiest point in completing these assignments? What did you find least clear or most confusing? What will be your plan to address this muddiest point to continue forward progress?

Focus your response on broadening your understanding of coding and thematic analysis.

Writing Results
and Discussion

This week focuses on writing your results and discussion. As you completed the course readings and submitted your draft of your results and discussion sections in your Pilot Study Template, what was the muddiest point in completing these assignments? What did you find least clear or most confusing? What will be your plan to address this muddiest point to continue forward progress?

Focus your response on broadening your understanding of the Results and Discussion sections in your pilot study.

The last week of the course focuses on completing revisions and edits on your draft to prepare your final submission. What is your plan for completing revisions and edits?

Hawaii's Twentieth-Century Working Women: Labor Feminists In Their Own Right

Megan E. Monahan

Fordham University

Abstract

This article examines the unique role of women in Hawaii's labor movement from 1940 to 1990, arguing that they were labor feminists engaging in multiple types of activism simultaneously. Drawing on Hawaii's specific labor and colonial history, the study focuses on female agricultural and service workers, teachers, and nurses who significantly impacted the state's labor movement. Hawaiian women's interpretation of feminism connected workplace rights to family and community needs, rooted in concepts of "ohana" and "aloha." Despite high workforce participation rates, their stories have been largely overlooked in historical scholarship. The article profiles prominent activists in agricultural labor, education, and nursing, exploring women's roles in Hawaii's transition from an agricultural to a service-based economy. It reveals a pattern of overlapping activism across various progressive causes. By examining these women's experiences, the study demonstrates that Hawaiian women labor activists fought not only for fundamental workplace rights but also for professional respect and recognition. Their stories complement Hawaii's labor history, showing how their belief in mutuality strengthened their network of activism and social causes. This research fills a significant gap in the scholarship on Hawaii's labor history and contributes to our understanding of women's roles in labor movements.

Introduction

With its specific labor and colonial history relative to the U.S., Post-World War II (WWII) Hawaii was a unique, unparalleled incubator for Hawaiian women's labor activism. Female agricultural and service workers, teachers and nurses, all played a significant role in the state's labor movement, achieving several major victories for male and female workers alike in the state's labor movement, between 1940 and 1990.

Like Cobble (2004), who argues for the feminism of working-class female labor activists, my work demonstrates that Hawaiian women were labor feminists participating in multiple types of activism simultaneously, especially energized by the specific, oppressive colonial history of Hawaii's former plantation economy. In fact, according to Stryker (2000), "participation in social movements can change the perceived interconnectedness of multiple identities," as many members of the Coalition of Labor Union Women often saw their identities as feminists and as union members as inextricably linked (p. 116).

Hawaiian women's interpretation of feminism proceeded as follows: they saw their workplace rights, such as higher wages and better working conditions, as closely connected to their family's needs, such as better housing and education for their children, and to their community's needs, such as protecting their culture and their environment against the powerful forces of

colonialism. These women's sense of mutual responsibility for their larger community had its roots deep in Hawaiian beliefs of "ohana" and aloha," which referred to Hawaiians' genuine love, concern and mutual responsibility for members of the community, beyond simply one's immediate family, or blood relatives (Trask, 1999, p. 94).

Hawaii's Working Women: By The Numbers

According to Bill (1997), Hawaiian women, especially married women, have consistently worked in larger numbers than women in any other state since 1940, ranking 17th out of the 50 states in women's total workforce participation, largely due to the high cost of living in Hawaii--in agriculture as field or cannery workers, in education as teachers, in healthcare as nurses or, more recently, in the service/tourism industries. Between 1900 and 1940, Hawaii's women entered the paid labor force in numbers equal to the rest of the country, with married working women in Hawai'i (18.8%) doubling the national figure of married working women (9%), ranking second in the nation for women's to men's earnings for year-round, full-time work (Schmitt, 1977, p. A4). Of the state's total labor force in 1942, Hawaiian women comprised 31% of that population, as compared with 25.4% of mainland working women. From 1930 to 1970, women's presence in Hawaii's workforce grew steadily, from about 36,000 to over 120,000 women; this number never declined over this nearly half-century period (Schmitt, 1977, p. A4). In 1970, 47% of Hawaii's women were in the state's workforce; by 1990, 63% of Hawai'i's women worked for wages, compared with the national figure that year of 57% (Bill 1997).

Despite Hawaiian women's strong, consistent labor force participation--repeatedly boasting the highest rates of working women in the country--they are largely missing from the twentieth-century story of the state's labor activism, which signals a cognitive dissonance in that story and a gaping hole in the scholarship, not yet addressed by historians of Hawaii. There is no doubt, then, that Hawaiian women were very present in the state's labor movement, in large and small ways; for too long, their stories of fervent, consistent and sustained labor activism have gone untold. These women's stories of labor activism deserve further examination, as they reveal new layers of nuance and complexity in Hawaii's labor history.

Hawaiian Women: Agricultural Labor Activists

The earliest of Hawaiian women labor activists were female agricultural labor activists, among whom three women were very prominent, namely, Helen Kanahale, a Native Hawaiian; Harriet Bouslog, a Caucasian labor attorney; and Ah Quon McElrath, the Chinese-American daughter of a picture bride.

Helen Kanahale

Helen Kanahale served as the president of an International Longshoreman's Workers Union (ILWU) Auxiliary, as well as treasurer of the United Public Workers (UPW) Auxiliary, in Hawaii. Having grown up an orphan raised by a Scotch-Irish woman who trained her as an Hawaiian dancer, Kanahale joined the labor movement in Hawaii as a young child, first inspired by her political activist uncle. Abandoned as a child, she said she always "made room in her heart

for a wronged brother or sister who needed help” (“The Reminiscences of Helen Kanahele,” 1975, p. 5). A Native Hawaiian known for her activism on behalf of basic rights for Hawaiians in the workplace, she once described her fury at ILWU plantation and dock workers being picketed by union bosses’ wives, during the 1946 Great Sugar strike: “Why are we sitting here watching?” she demanded. “Let’s show these women we’re not afraid of them!” (“The Reminiscences...” 1975, p. 3). Of the workers for whom she fought that day, Ms. Kanahele said “we were doing our part to convince the people that we were fighting for, for the rights of the people and for better working conditions” (“The Reminiscences...” 1975, p. 3). Like so many Hawaiian activist women, she also advocated for other political causes, not only for pro-union Democrats, but also for civil rights during the “Hawaii Seven” case, in which seven ILWU labor activists in Hawaii were accused of being communists during the Red Scare of the 1950s. Kanahele also fought for Native Hawaiian rights, often lamenting that there was “one kind of justice for the upper-class haoles (whites) and another kind of justice for Hawaiians,” in the 1951 Wilder Case, when two Native Hawaiians were falsely accused of murdering a white woman (Clarke, 1956, p. 5).

Harriet Bouslog

Harriet Bouslog, an ILWU labor attorney who fought tirelessly not only for workers’ rights, but also for basic human rights, was only the eighth woman to join the Hawaii Bar in December 1941. In fact, Bouslog rapidly became the voice of the working class in Hawaii’s courts, often the lone attorney willing to represent workers against employers, like the “Big Five” plantations in Hawaii, the group of five plantations who dominated Hawaii’s agricultural markets until the 1950s (Puette, 1991, p. 41). Furthermore, she helped to create fair labor laws for Hawaiian workers, and successfully defended those two Native Hawaiian men mistakenly accused of murdering a white woman in the Wilder case, with Kanahele describing her as the “only lawyer who would touch the case” (Clarke, 1956, p. 6). In addition, Bouslog successfully gathered public support for abolishing the death penalty in Hawaii in 1957. In the “Hawaii Seven” Trial, Bouslog defended seven Hawaiian ILWU members accused of being communist co-conspirators under the Smith Act, also known as The Alien Registration Act of 1940, which is a federal statute that set criminal penalties for advocating the overthrow of the U.S. government, requiring all non-citizen adult residents to register with the government, specifically focusing its prosecutions on highly politically charged organizations and figures, such as labor unions (Seventy-Sixth U.S. Congress, 1940). Temporarily disbarred from the practice of law for openly questioning if people charged with communism could receive a fair trial in the starkly conservative environment of post-WWII, martial law Hawaii, Bouslog was reinstated when her appeals led to a landmark decision in her favor by the U.S. Supreme Court *In Re Sawyer* (1959). Among the controversial comments about the Hawaii Seven Trial, which led to her temporary disbarment, were:

- “There is no such thing as a fair trial in a Smith Act case...that would be virtually, if not literally, impossible...in wartime Hawaii where martial law rules the day...” (Bouslog, 1951, p. 5).
- The U.S. government, had “overthrown” the Bill of Rights, “purposefully denying” the Hawaii Seven’s “right to a fair hearing and a fair trial...simply because their ideas were unacceptable...automatically branding them criminals... and essentially conspiring to silence all opposition...” (Bouslog, 1951, p. 6).

Attorney Bouslog had a genuine passion for her work, and a communal conception of democracy, of which she spoke, when she said she was inspired by workers in the Great Sugar Strike of 1946: “Whenever I think of democracy, I think of a meeting...of about 600 to 700 people at Lahaina, Maui, in 1946, who, after a 79 day strike...people whose children needed clothes and shoes and food...refused to return to work until the eleven men {who were the strike leaders...charged with unlawful assembly and riot} were guaranteed reinstatement without discrimination” (Arrinaga, 1997, p. 3).

Ah Quon McElrath

Yet another female labor activist and feminist trailblazer in Hawaii, who worked closely with Kanahele and Bouslog, was Ah Quon McElrath, a woman whose mother had originally traveled to Hawaii as a “picture bride” from China at the turn of the century (O’Farrell & Kornbluh, 1996, p. 135). Not only was McElrath the first social worker, and the only woman hired at the predominantly male Local 142 of the ILWU, but she also played a key role in earning the right for ILWU and agricultural workers to bargain collectively under the “Little Wagner Act” in Hawaii, which enabled the organization of farm workers (such as sugar workers in Hawaii) into unions, a provision which had not been included in the original Wagner Act in 1935 that had allowed for organizing most other workers into unions--a right which ILWU workers first expressed in the Great Sugar Strike of 1946 (O’Farrell & Kornbluh, 1996, p. 146).

Growing up herself in a working class Honolulu neighborhood, McElrath had a strong empathy for and identification with the working class and with the poor, whom, she contended, “have been swept under the rug...and blamed for practically all of the ills of society” (Mast, 1997, p. 305). Describing her own cannery work at the tender age of 13, before child labor laws were passed in Hawaii, “as nothing less than backbreaking...trimming pineapples {at the cannery} was very hard, physical work...the acidic juice would {almost always} run into my gloves and give me a rash.” (Mast, 1997, p. 305). In fact, her dozens of jobs at canneries and plantations in Hawaii as a child and young adult--“instilled in me an ability to understand the value of hard work...and to identify with cannery workers who faced such harsh working conditions” (O’Farrell & Kornbluh, 1996, p. 135).

McElrath often said that Hawaii’s labor movement “should never forget the history that made us (the ILWU) an important force,” such as when it won almost equal pay parity with West Coast longshoreman in the Great Dock Strike of 1949 (O’Farrell & Kornbluh, 1996, p. 135). Therefore, she sought to raise workers’ consciousness about their rights and about the “vast possibilities of an economic system...that treats people with dignity and respect, giving them a measure of control over their lives...and the ability of trade unions to give that to working people...a stronger sense of equity and justice {in the capitalist marketplace}” (Mast, 1997, p. 305). Despite being accused of communism herself as such a strong labor advocate, McElrath made social activism a way of life, working tirelessly for the poor and workers’ rights, namely for universal healthcare in Hawaii in the 1970s, as well as on the Committee of Welfare Concerns.

By exploring the experiences and lives of more prominent labor activists like Kanahele, Bouslog and McElrath, and the lives of lesser known, but no less heroic, female foot soldiers, who were either advocating for equal pay for themselves as field workers, or were supporting their

husbands at the grassroots level through tense moments of labor strife with pickets, protests and soup kitchens, this project assembles these stories into a new, comprehensive history of Hawaiian women's labor activism.

Hawaiian Women Education Labor Activists

During the twentieth century, then, Hawaiian women's labor activism manifested itself in frequent patterns of overlap in women's activism across several politically charged and progressive causes at the same time, simultaneously energizing each other's respective causes, be they for workers, housing or education. Two of the most prominent female education labor activists were Odetta Fujimori, the first president of the Hawaii State Teachers' Association (HSTA), and Joan Husted, the second, longest-serving president of the HSTA, following Fujimori.

Odetta Fujimori

In 1971, Odetta Fujimori led the charge for creating the HSTA, so as to establish separate collective bargaining units to represent the needs of teachers exclusively. The organization soon exceeded 6,000 members, after breaking from the Hawaii Educ. Association (HEA), which had both school administrators and teachers as members in the same bargaining unit.

When the HSTA chose Fujimori--a woman of mixed-race descent, part-Japanese, part-Hawaiian and part-Chinese--as its first president, it demonstrated its progressive, reformist approach. Nevertheless, Fujimori faced racial discrimination from some members for being part-Hawaiian, and thus was unfairly stereotyped as "lazy and laid back;" however, she bravely led the HSTA through its tumultuous inaugural years (Monahan, 2011). When she left HSTA in 1973, she became the first Asian-American woman to join the National Education Association (NEA's) Executive Board.

During her brief tenure at the HSTA, Fujimori also successfully won teachers' what she described as such "basic, dignified rights as no longer having to clean their own classrooms and mop their own floors, without even so much as a lunch break" (Monahan, 2011). Not only did Fujimori advocate for and win the elimination of teachers' time clocks, she also worked to increase their salaries and preparation periods. In short, Fujimori--herself the daughter of ILWU labor activist parents--said she sought to "compensate teachers' properly and accord them respect as professionals" (Monahan, 2011). A testament to Fujimori's skillful, adept leadership was the fact that she managed to mediate--and to stop--a strike at her last HSTA meeting, all while being nine months pregnant (Monahan, 2011).

Joan Husted

For the next thirty years, after Fujimori's departure for her new role at the NEA, Joan Husted, a Caucasian, mainland transplant from Michigan, led the still-very new teachers' union in Hawaii for the next 30 years, carrying on Fujimori's mission of seeking to professionalize teaching in Hawaii: "Teaching is one of the few professions over which teachers have no control over who enters the profession...And certainly one of the components of a successful public education system is a well-trained, well-compensated teaching force" (Monahan, 2011).

In short, Husted, who also once led the Hawaiian State Commission on Status of Women, and also fought for comparable worth for women in the state “absolutely refused” to be known as the union president of the “first bargaining unit in the state to agree to an increased workload {a longer workday, fewer preparation periods and more class time for teachers} without also winning the teachers a higher salary” (Monahan, 2011). Fearlessly commenting at a public HSTA meeting just prior to a 1973 strike, Husted said that “the state, like a reluctant spouse, has protested the marriage counselor approach of mediation” (*Teacher Advocate*, Feb. 28, 1973, p. 7).

In fact, Husted did not allow anyone or anything, to stand in her way, including the governor: “At the governor’s (John A. Burns) funeral, one of the governor’s staff approached me, grabbed me, called me a nasty name, and said, to my face, that I had killed the governor {through her intense, passionate leadership of the HSTA}” (Monahan, 2011).

Hawaiian Women: Nursing Activists

Like many working women nationwide, Hawaiian women joined the ranks of the state’s nurses in large numbers after World War II. In fact, the membership of the Hawaiian Nurses’ Association (HNA) more than doubled, from 3,000, in 1970, to 10,000 in 1990 (May Lau, 1991, p. 1). When understaffing and low pay became common for staff nurses after hospitals in Hawaii merged in the 1960s and 1970s to save money, a trio of strikes ensued amongst the state’s nurses in the 1970s and 1980s.

Claudine Tomasa

For nurses like Claudine Tomasa, an R.N. and an HNA representative, the issue was that “their value as professionals was not recognized in terms of compensation by employers...We were working harder, with more responsibilities, but not being compensated...We weren’t being treated as professionals” (Fillner, 2005, p. 2).

Similar to Hawaii’s teachers, she struggled to create a “full-fledged union” exclusively for staff nurses “insulated from the influence of supervisors {and budget concerns}, protecting the integrity and respect of nursing as “more than a job, but as a true profession and calling,” the “practice over which we should have {complete} control...since we are dealing in the business of human lives...which cannot be replaced” (Fillner, 2005, p. 3).

Feminist Messaging

Despite being mocked in the sexist press as a strike that was “somehow...genteel and lady-like, with “good ole TLC--tender loving care” with nurses “properly attired in starch white uniforms,” as well as “curious and interested” in passersby, “quick to exchange a pleasantry” and “happily waving” to patients entering the hospital in a “picket line of a different color,” Hawaii’s nurses toted placards with such bold, feminist messages as: “What Would Florence Nightingale Think?” “Dedication Won’t Pay the Rent;” “Needed: An Employer Who’s Fair,” and “Nurses Deserve More.” (*HNA Newsletter*, May 1974).

In those three strikes over twelve years bet. 1974-1986--the first strikes in Hawaii led by women, all of which lasted anywhere from 2 weeks to 2 months--a total of 1,200 nurses brought a dozen hospitals in Hawaii to their knees, crippling bottom lines and cutting patient occupancies by half--directly challenging hospital administrators (*HNA Newsletter*, May 1974). However, they emerged with something more important than higher wages and more vacations--a new sense of respect from doctors and administrators about the crucial role they played in patient care--not simply as glorified doctors' assistants, but as knowledgeable medical professionals and skillful negotiators in their own right.

Hawaiian Women: Tourist Labor Activists

By the time the U.S. annexed Hawaii as a state in 1959, tourism economically surpassed the pineapple industry for the first time in history, earning \$130 million for tourism in profits, compared to \$127 million for the pineapple industry, respectively (Stern, 1987, p. 99). As tourism expanded, while the pineapple industry contracted, the Local 5's role increased as well...setting high standards for wages and benefits that helped all of Hawaii's workers. Chartered in 1938 as its fifth local union by the Hotel and Restaurant Employees International Union (HERE for short), Local 5 is one of the most successful SEIU's nationwide...growing from a few hundred members up to the current 11,000 members (Stern, 1987, p. 100).

During the 1990 hotel strike, 7,500 striking HERE (Local 5) hotel employees, many of whom were female housekeepers and maids, took their labor battle to the beaches, giving tourists a clear, blunt view of the workers behind clean rooms and good meals, and winning 30 days unpaid parental leave and wages equal to unionized mainland hotels (Stern, 1987, p. 99).

This moment in the organizing of tourist workers reflected earlier moments in the initial organization of Hawaii's service workers into unions, as well as the prominent roles played by such female HERE labor leaders as Arlene Ilae, Berna Iousa and Sherrie Chiesa. In short, the transformation of Hawaii's economy from an agricultural to a service (tourist) economy fundamentally changed how Hawaii's workers organized into unions, and how women's labor advocacy, particularly during the 1990 strike, played such a major role in this transition.

Conclusion

Even prior to WWII, Hawaii always had a racial and ethnic diversity unique to its geographic locale as a meeting place for the fusion of Eastern and Western cultures. However, the defiant challenges to authority of the U.S. Civil Rights and Modern Women's Rights movements on the mainland--which, in the decades following WWII, had finally begun to confront the country's entrenched, but flawed, social, racial and gender hierarchy--breathed new life into Hawaii's modern-day labor feminists, though they were certainly not immune to their own racial, ethnic and class tensions. Whether they were agricultural or service workers, teachers or nurses in Hawaii, these women demonstrated their utter distaste for micromanagement by larger unions--so often a characteristic of the Hawaiian labor movement--resisting the hierarchial dominance associated with the colonial history of the "Big Five" plantations in Hawaii.

These female Hawaiian labor activists, then, also displayed a palpable level of participation across and within several types of activism simultaneously, demonstrating how their belief in mutuality strengthened that network of activism, and thereby strengthened all of their respective social causes. In summary, Helen Kanahale, Harriet Bouslog, Ah Quon McElrath, Odetta Fujimori, Joan Husted or Claudine Tomasa--as well as the countless, unnamed female foot soldiers of the ILWU, the HSTA, the HNA and HERE fought not only for Hawaiian women's fundamental workplace rights--such as improved wages and better hours, but also for professional respect for women as rightful wage earners, as well as skillful negotiators. These women's stories deserve to be told, as they will complement and enhance the labor history of Hawaii.

References

- Arrinaga, E. (1997). *Biography Hawaii: Five Lives-A Series of Public Remembrances: Harriet Bouslog-Lawyer, Risk Taker, Champion of the Underdog*. University of Hawaii.
- Bill, T. (1997). *Into the Marketplace: Working Class Women in Twentieth-Century Hawaii*. *Labor's Heritage, Quarterly of The George Meany Memorial Archives*, 9(1), 24-45.
- Bouslog, H. (1951, September 13). Harriet Bouslog Tells of Case of Hawaii Seven. *Honolulu Record*, 4(7), 5-7.
- Clarke, A. (1956, October 4). Mrs. UPW Herself. *Honolulu Record*, 9(11), 5-6.
- Cobble, D. (2004). *The Other Women's Movement: Workplace Justice and Social Rights in Modern America*. Princeton University Press.
- Fillner, P. (2005, March 31). Interview Paper: Claudine Tomasa, R.N. and HNA Representative. Center for Labor Education & Research (CLEAR), University of Hawaii.
- Hawaii Nurses Association. (1974-1986). *HNA Newsletter*.
- In Re: Sawyer*, 260 F.2d 189 (9th Cir. 1959).
- May Lau, M. H. (1991). *The Hawaii Nurses Association: A History*. Center for Labor Education & Research (CLEAR), University of Hawaii.
- Mast, R., & Mast, A. (Eds.). (1997). *Autobiography of Protest in Hawaii*. University of Hawaii Press.
- Monahan, M. (2011, July). Interview with Joan Husted.
- Monahan, M. (2011, July). Interview with Odetta Fujimori.
- O'Farrell, B., & Kornbluh, J. L. (Eds.). (1996). *Rocking the Boat: Union Women's Voices, 1915-1975*. Rutgers University Press.

- Puette, W. (1991). *Pa'a Hui Unions: The Hawaiian State AFL-CIO, 1966-1991*. Center for Labor Education & Research (CLEAR), University of Hawaii.
- Schmitt, R. (1977). *Historical Statistics of Hawaii*. University of Hawaii Press.
- Seventy-Sixth U.S. Congress. (1940, June 29). The Smith Act, also known as the Alien Registration Act of 1940.
- Stern, B. (1987). *The Aloha Trade: Labor Relations in Hawaii's Hotel Industry*. University of Hawaii Press.
- Stryker, S. (2000). *Self, Identity and Social Movements*. University of Minnesota Press.
- Hawaii State Teachers' Association. (1973, February 28). *Teacher Advocate*, 2(4), 7, 9.
- The Reminiscences of Helen Kanahale. (1975). In *University of Hawaii Pacific Regional Oral Histories, History of the UPW in Hawaii*. *New York Times Oral History Program* (No. 11). University of Hawaii.
- Trask, H. K. (1999). *From a Native Daughter: Colonialism & Sovereignty in Hawai'i*. University of Hawai'i Press.
- U.S. Census Bureau. (1940). Preliminary Figures in Employment Status, Occupation Industry, and Income, for the Territory of Hawaii and Honolulu City-Sixteenth Census of the U.S.
- U.S. Census Bureau. (1990). Women by the Numbers.
- U.S. Department of Commerce: Bureau of the Census. (1842, April 8).