

THE  
RESPONSIVE  
COMMUNITY



RIGHTS *and*  
RESPONSIBILITIES

Volume 6, Issue 4, Fall 1996

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# UP FRONT

## Disabled, Not Dead

Ten years ago, before Dr. Jack Kevorkian became a Halloween mask, I went to a conference in Minnesota of disability rights activists. Much of their anger was directed at the American Civil Liberties Union, which some of them had previously regarded as an ally.

The Southern California affiliate of the ACLU had gone to court to establish the right of a woman with cerebral palsy and other disabilities to get help in committing suicide. The ACLU did not succeed, and its client, having recovered from clinical depression, decided she did not want to die after all.

Since then, the Michigan and Florida affiliates of the ACLU have vigorously supported assisted suicide, and the national office, being politically correct in these matters, goes along. Now, at last, the ACLU does seem to have won this battle for death-on-demand. Both the 9th and 2nd Circuit Courts of Appeals have ruled not only that assisted suicide is legal but that a doctor may prescribe pills for the despairing patient and, under some circumstances, directly administer a lethal injection. That is, the doctor can commit an act of euthanasia.

Of all those opposing these lethal court decisions, the most apprehensive and enraged are various disability rights groups. An alliance of the dissenters has created a new force. It is called Not Dead Yet. One of the organizers is Woody Osburn, a full-time civil rights specialist with the Pennsylvania Coalition of Citizens with Disabilities. He is a quadriplegic. "Americans with disabilities," he and the others say, "don't want your pity or your lethal mercy. We want freedom. We want *life*. We, the people living with severe disabilities and chronic illnesses, are the most affected by assisted 'suicide.'

“Our deaths are being viewed as more desirable than providing services such as in-home care that would allow us to live as free and independent citizens. Instead, many of us are caged in nursing homes and other institutions or dependent on a family member—the two main circumstances that lead to assisted ‘suicide.’”

Not Dead Yet is circulating a prescient, ominous statement by Dr. Kevorkian on the social value of assisted suicide. He presented it to a Michigan circuit court in 1990. Said the good doctor: “The voluntary self-elimination of individual and mortally diseased or crippled lives, taken collectively, can only *enhance* the preservation of public health and welfare.”

Those who are not dead yet are afraid that much of the general public uncritically assumes that the “voluntary” part of Kevorkian’s prophecy will be exactly that. After all, not a few of us do not like to look at—or think about—“defective” people and believe that the severely disabled probably do wish, in their heart of hearts, to be “liberated” by suicide.

Through the years, in hospitals, some of the disabled have been told, one way or another, that their “quality of life” is hardly worth their effort to preserve it, let alone the efforts of their doctors or the cost to society. And with some of the disabled, that assessment of their lives can become persuasive.

One of the witnesses during a recent hearing on assisted suicide by the House subcommittee on the Constitution was Diane Coleman, executive director of the Progress Center for Independent Living. Because of spinal muscular atrophy, she has been a wheelchair user since the age of 11.

She told the subcommittee—headed by Representative Charles Canady (R-Florida)—about court decisions that over the past decade have allowed life-sustaining treatment to be withdrawn from persons “with substantial, though not terminal, disabilities. This trend is rooted in pervasive and largely unconscious societal prejudices against people with disabilities.”

In a publication called *Mouth*—a lively and continually challenging advocate for disability rights (61 Brighton St., Rochester, N.Y. 14607-2656)—Joe Ehman, a reporter with disabilities, tells of his encounter with a prejudicial view of his own “quality of life”:

“A few hours after surgery, still delirious from the anesthesia and from post-surgical morphine and Demerol, I had to hear from a social worker who wanted to force-feed me a Do Not Resuscitate [order to the doctors]. I mustered my strength and screamed, ‘I’m 30 years old. I don’t want to die.’ Another nurse came into the room. She asked why I was verbally abusing a staff member. I responded that there was nothing in arm’s reach to throw....”

Not dead yet.

*Nat Hentoff*

## Rethinking Education for Citizenship

The emphasis educators place on individual achievement is so much the norm that it hardly seems like a choice. But those sincerely committed to democracy and community would do well to question this singular focus. Though the academic knowledge and abilities individual students develop are of undeniable importance, it is also important to ensure that students have opportunities to achieve common goals by working together. A well-functioning society requires that groups of individuals come together to identify and respond to pressing social needs. School is an appropriate setting for such lessons to be learned.

The implications for educators are substantial. Efforts to promote democratic communities require that schools help students develop shared commitments to common goals. This is not to say that harmony will easily follow collective undertakings. Because a wide range of values and priorities must be respected in a democratic community, students must learn to deal with conflicts collectively, in productive and respectable ways. Schools therefore need to foster commitments to communication, scientifically informed debate, experimentation, and space for dissent.

Such goals and approaches are not new ones for educators. Throughout this century, progressive educators have argued that students should spend at least part of their day working together on projects that turn schools into, as John Dewey wrote, “a genuine form of active community life, instead of a place set apart in which to learn lessons.” These collective activities are structured to build social bonds and to help students develop common goals—goals that are not aggregates of individual preferences, but that reflect the needs of the group or broader community.

Despite their long history, these ideals remain marginal to most educational policies and practices. And this problem only intensifies when future opportunities for economic gain are used to motivate scholastic competition and academic success, as they so often are in today’s schools. Indeed, as students get older, studies show that they increasingly come to view themselves as successful at a given task only when they perform that task better than others do—hardly a condition that promotes a supportive community. Traditional strategies aimed at academic excellence may help foster productive employees and entrepreneurs, but our nation would be better served if we added another criterion when judging a scholastic environment: Does it help develop bonds of understanding and support among students?

Currently, the emphasis of most curricula is most directly on “basic skills” and on math, science, and technology. As President Clinton explained in his last State of the Union message, the overriding concern is whether “our children [are] learning what they need to know to compete and win in the global economy.” But what of “basic skills” that may be of equal or greater value? Why, for example, is it generally considered essential to provide all students access to biology courses with labs that help them learn about mitosis and photosynthesis, but not important to give all students an opportunity to discuss and practice parenting skills in conjunction with an academically rigorous exploration of issues related to child development?

#### ALREADY EFFECTIVE?

Of course, conventional wisdom has it that schools already do a great deal to foster and support democratic communities. Two prin-

cial ways they further this goal is (1) by providing students with the skills and knowledge necessary for these future citizens to judge varied issues intelligently, and (2) by providing common learnings and opportunities for social interaction among different social groups. While there is substantial merit to both these claims, each falls short.

First, effective citizenship requires much more than knowledge and skills. Jonathan Kozol reminds us, for example, that “Gandhi, asked once what it was that made him the most sad in life, is said to have given this reply: ‘the hardness of heart of the well-educated.’” The emphasis on cognitive goals that so dominates educational policy discussions neglects the many interpersonal and moral dimensions of growth which determine, at least as much as knowledge and skills, the degree of humanity and justice in a society. Educators working to develop students who support democratic communities must attend to students’ social development. To use the catch-phrase of the day, “emotional intelligence” cannot be ignored.

Similarly, throughout the century, many have claimed that the common learnings and the opportunities for social interaction offered in public schools provide a powerful unifying force in our society. But if efforts to mix groups and create ethnically, culturally, and racially diverse schools have taught us anything, it is how much better we are at desegregating than at integrating. Assigning a diverse group of students to the same school or classroom is not enough. Neither is having all students study the same subjects. Schools can best support social integration by creating settings in which diverse groups of students have meaningful interactions, perhaps working together on a project that demands collective effort.

Such initiatives are difficult to implement effectively. They demand that students develop their abilities to negotiate, articulate, and deliberate so that they can deal with the misunderstandings and conflicts that naturally arise in such forums. These forums, much more than common curricular content or bureaucratically arranged desegregation, hold the potential to provide students with the skills and opportunities needed for effective citizenship in democratic communities.

One specific way to pursue these goals is through what has come to be called “service learning.” In Chicago, for example, a group of

high school students in a service learning project studied community members' use of a neighborhood park and provided written and oral reports suggesting new initiatives to the park governing body. Older students in an elementary school developed an after-school program for first and second graders. They read to these students, helped them with their homework, and supervised some athletic and artistic activities. In a different class, students ran a year-long project where they studied the social and scientific issues associated with recycling and organized recycling efforts throughout their school. Service learning activities help students reach out to others while they acquire important knowledge and develop a broad array of valuable skills. Most importantly, service learning asks students to work together while responding to social needs they help identify. Simply put, students come to understand the rights and responsibilities that define citizenship in a democracy.

Efforts to promote these alternative goals require actions on many levels. But most fundamentally, they require recognition that the pursuit of democracy and community may require significant changes in current educational practice. Until these goals are pursued aggressively, we remain at the level of rhetoric.

*Joseph Kahne*

## Notes on Public and Personal Character

### PUBLIC LEADERS

An overwhelming majority of voters believe that our problems are mainly moral/social; little wonder that the moral stature of the person to lead us matters. And as we agree that the government should control, mandate, and entitle less—the president must cajole, convince, and lead *more*. As presidents become less the CEOs of the United States and more the masters of the bully pulpit, their character rises in importance; it determines their credibility.

The character of politicians cannot be drawn in black and white; it comes only in shaded hues. And while all its stripes are relevant to public office, some are more significant than others. Having an inner, non-negotiable core is more important than how one deals with one's wife (or ex-wife). Having true compassion for the deserving poor but only tough love for the others is more important than being kind to the staff, and so on.

We should not look for a person with perfect character unless we want to limit the race to Mother Theresa. But we should insist that the candidate's character be good enough—enough to ennoble rather than diminish us.

#### WHEN IS RATTING VIRTUOUS?

We each have a little militia man within us, and he refuses to get out. We are still reluctant to recognize the necessity of a firm authority to maintain social order. Take the most recent fuss about the use of teenagers in sting operations, the purpose of which was to reduce the sale of cigarettes to minors. The police are sending 15-year-olds, who look their age (not some of those overgrown hunks), to try to buy smokes. When cigarettes are sold to these minors, the offending party is warned the first time and fined as much as \$125 thereafter. When liquor is also sold to minors, the business license may be revoked.

This type of sting operation is reported to take place in at least 17 states and is fostered by the National Cancer Institute. Given that as many as 54 percent of the merchants are found to violate the law in some parts of the country (Madison, Wisconsin for instance), the fines suffice to cover a good part of the cost of the program. Most interesting, in several communities teens have organized themselves into antismoking squads, who identify merchants who illegally sell cigarettes and chewing tobacco, and who call the police all on their own.

At first blush, it would seem that preventing the sale of death nails—as cigarettes were called long before science established the aptness of this early folk characterization—would bring nothing but cheer. The public and personal good involved is crystal clear: according to the Center for Disease Control, the damage cigarettes cause

to health in the United States exceeds that of drugs, alcohol, automobile accidents, and AIDS combined.

All this may be true, both libertarians and the tobacco lobby argue, but all individuals should be free to choose what they wish to do with their life. The facts about the secondary effects of smoking (that is, on nonsmokers) are fairly contested. And, there are no net public costs, ghoulish economists tell us, because smokers die younger than the rest of us, and often do not live long enough to collect their social security.

We tend to forget, when we are subjected to the free-choice rhetoric, that choice is a right of adults. When children are involved, parents, educators, and communities have a duty to protect them—including limiting their choices, from how late they stay up to how they drive—until they are “brought up” to be able to make responsible choices of their own. Most smokers these days (89 percent to be specific) start smoking before they reach the age of 18. Given that teens become addicted before they reach a stage at which they can make mature decisions, it is our obligation to help them ward off cigarettes and other addictive substances. Ergo, laws that prohibit selling cigarettes to minors are in place not merely because some old-fashioned or paternalistic legislature enacted them; they seem quite justified.

And, the militia man in us oddly needs to be reminded, laws are meant to be reinforced. According to police reports, cigarettes are sold to minors rather freely in many parts of the country. When laws are ignored with impunity, we are left with more than a new generation of addicts; we teach youngsters disrespect for the law.

A subtle indication of how reluctant we are to support authority can be gleaned from the fact that the powers-that-be find it necessary to provide merchants advance warning about the stings. The mere existence of a law (and elementary decency) seems an insufficient ground for action. Extra warnings need to be issued to those who violate the law: “Watch out this week; you may be caught.” Otherwise, we may consider that the police acted “unfairly,” as if we were playing cops and robbers and the cops are the only ones who have sneakers.

Still my liberal friends are in a tizzy. Getting teens to snitch to the police, ratting on their neighbors or parents to the government, agitates the militia man in them. Actually, neither neighbors nor parents are involved. Nobody is asking the children of the shopkeepers, or those who live next door, to sting those they are personally close to. Moreover, while in some previous ages, when values were strong and laws were vigilantly enforced and thus the need to keep authorities from overpowering the citizens was paramount, today the case is different. Given our declining social order, shoring up public authorities has become the order of the day. Such shoring up is impossible if we block every new tactic communities come up with to curb violations of the law. Stings, when they do not involve entrapment, when they do not entice individuals to commit crimes they otherwise would not be inclined to commit, are such a tool.

Teens would do well—and those who work with teens might wish to encourage them—to learn to draw on their moral voice before they turn to the police. Antismoking activists may express their concerns to first-time offenders by sending letters to the shopkeepers when they are first caught in the act, expressing their concerns about such behavior. And teens would do well to picket the shops of repeat offenders. But when these civic measures fail, collaboration with the police is part of one's civic duty and not an un-American act.

*Amitai Etzioni*

# ESSAYS

## COMMUNITARIAN THEORY

### Social Justice: A Communitarian Perspective

PHILIP SELZNICK

In this essay I seek to reaffirm, and to clarify if I can, the communitarian commitment to social justice. I shall try to do so by showing how our understanding of community makes social justice a moral imperative.

Communitarians look to the experience of community for moral guidance and promise. In doing so we should draw on the whole of that experience, the dangers and deficits of community as well as the benefits and ideals. We should take account of egoism as well as altruism; and we should recognize that some forms of altruism may limit the reach of community and tarnish its ideals.

Our chief prescription—the main lesson we draw for the United States today—is the need for enhanced responsibility. As we observe the weakening of institutions, the blurred line between liberty and license, the widespread preference for short-run gains, we see the need for more extensive responsibility in every aspect of personal experience and social life.

I do believe we have hit the right note. I am troubled, however, by a selective concern for personal responsibility, personal virtues, personal morality. While these themes are music to the ears of conservative writers and politicians—whose main concerns are crime, illegitimacy, and similar offenses, and who see immorality as a lower-class evil appropriately addressed by punitive measures—they pay

little attention to the responsibilities of the affluent, or of business leaders. Most important, the moral responsibilities of the community as a whole are only dimly perceived and given short shrift.

There is plenty of truth in the conservative critique of modern culture. Communitarians do not shrink from recognizing that truth. We have joined in calls for more responsible parenting, more discipline in schools, and safe streets and homes. But we part company with conservatives insofar as we look to collective as well as personal responsibility; and insofar as we understand that collective responsibility includes obligations of care for the vulnerable and the disadvantaged.

Furthermore, communitarians need to appreciate the close connection between personal and collective responsibility. *Personal responsibility is most likely to flourish when there is genuine opportunity to participate in communal life.* These conditions require substantial investment by the community and its institutions. At the same time, how much the community invests, and what kind of investment it makes, will depend on the prevalence of a sense of personal responsibility for the common good.

Let us not confuse responsibility with compassion. The communitarian ethos is not mainly about sympathy or benevolence. It is about meeting our obligations as responsible parents, children, citizens, officials, and economic actors. These obligations are eased by love, and supported by love, but they arise and persist even where love is absent or hard to sustain. At bottom, responsibilities arise from social involvements or commitments. Our lives touch others in many ways, for good or ill, and we are accountable for the consequences—accountable to ourselves as well as to others. Accountability and obligation give a tough-minded spin to concepts of community and responsibility. They also point us toward social justice as a foundation of community, and as a communitarian imperative.

In what follows I review four basic principles of social justice: equality, mutuality, stewardship, and inclusion. All are expressions of the morality of community.

## EQUALITY

Communities are best understood as frameworks within which diverse interests are served and ordinary life goes forward. This pluralistic image of community is evident in Amitai Etzioni's idea that community is "a community of communities," or, as I have put it, a "unity of unities." These phrases are meant to capture a remarkable feature of communal life. A flourishing community builds upon and is nourished by other unities, notably persons, groups, practices, and institutions. These constituent unities characteristically claim respect and protection. Although boundaries may be blurred, for example between family and school, each has its own special functions, values, and needs. *Hence what we prize in community is not unity of any sort at any price but unity that preserves the integrity of the parts.* The unity of community is, ideally, a federal unity.

This conception has fateful implications for communitarian doctrine and social policy. Most important is a postulate of moral equality. The federal principle to which I have referred guarantees the dignity of the community's fundamental constituents, who are individual persons. This understanding of community bridges Biblical and Enlightenment thought. All persons have the same intrinsic worth. They are unequal in many ways—in talents, in contributions, in authority, in power, in valid claims to rewards and resources. But no person's well-being is inherently more worthy of consideration than any other's. Everyone who is a person is equally an object of moral concern.

A corollary not well understood, especially among critics of communitarian thought, is that community presumes separateness as well as integration. To be sure, people need strong communities if they are to develop and flourish as fully realized persons. Nevertheless every person is unique, separate, and morally autonomous. This separateness creates what John Rawls calls "an inviolability founded on justice that even the welfare of society as a whole cannot override." This idea does not require us to think of people as disaggregated or "abstract." Individual persons are not necessarily detached from their social contexts; they are not necessarily arm's-length participants in contracts of limited obligation; they do not necessarily believe that all their choices should be autonomous. They are likely to be socially embedded, socially implicated, even socially encum-

bered. Yet they do make choices; they struggle against authority; and they sometimes cast off their received identities. There is nothing objectionably “individualistic” in recognizing these facts, or in treating the well-being of individual persons as the criterion by which we judge policies and practices.

It is widely recognized, at least implicitly, that moral equality is at the heart of justice. Even among young children, experienced injustice is closely tied to a compelling sense of moral equality, often accompanied by loud demands for its vindication. “Why don’t I count as much as my brothers? Not fair!” Indeed an arbitrary judgment, insofar as it violates the principle of equal justice, is at bottom an offense to the moral equality of litigants, citizens, or other members of the relevant community.

From the standpoint of *social* justice, the most important threat to moral equality is social subordination. Although moral equality does not require social equality—communitarians are hardly egalitarian—we recognize that significant differences in wealth, income, and education tend to create and reinforce beliefs that affluent people are inherently more worthy than their disprivileged brethren. Social justice requires eternal vigilance against this caste principle, and against the invidious discrimination it breeds.

I want to stress the concept of *invidious* discrimination. In the United States this idea has been obscured and mystified—indeed very roughly handled—in debates about affirmative action and equal opportunity. Classification by race may be distasteful, often arbitrary, and ultimately undesirable. However if such classification serves a legitimate moral and public purpose, such as overcoming prejudice and opening opportunities, it is not necessarily invidious; it does not impose a caste principle. Even very weak forms of affirmative action, let alone preferential hiring or promotion, require institutions to “know the race” of those entitled to enhanced opportunity. Such programs may deny to some people benefits they might otherwise have. But they are not thereby demeaned or degraded; they do not suffer invidious discrimination. Despite some rhetorical overreaching, in the slogan that the Constitution is color-blind, that document need not be read as requiring our governments to turn a blind eye to the most wounding reality of American life.

We cannot vindicate moral equality—and thereby do justice—if we do not remedy the most important effects of domination and impoverishment. Social justice requires a regime in which everyone’s basic needs for life, health, liberty, and hope are respected and addressed. Therefore we must be committed to a baseline equality of condition, that is, a social minimum of nurture and opportunity. This can and should be conditional. It may well require a reciprocal exercise of personal responsibility with respect to work, education, and deferred gratification; and the level of the baseline will necessarily reflect the level of prosperity in the community as a whole. Moreover, inequality as such is not the issue. There is no question of requiring those who have more to help those who have less *just because they have less*. The obligation is owed to people who suffer or are degraded because they are oppressed and impoverished; to people who are in danger of being despised and excluded—that is, rejected as objects of moral concern.

#### MUTUALITY

I turn now to an aspect of community that is poorly understood yet bears closely on justice. When we think of community, what comes most easily to mind is the experience of belonging, especially belonging based on a shared history and identity. But belonging by itself may produce a caricature of community, such as a family in torment, just as voting, without more, can produce a caricature of democracy.

The moral benefits of belonging are real enough—rootedness, humility, loyalty, piety. Not less important, though routinely overlooked in discussions of communitarianism, are the moral bonds of civility. Piety celebrates a shared faith, culture, and history. Civility protects diversity, autonomy, and conflict, which are presumed to be prevalent and beneficial. Compared to piety, the norms of civility are more impersonal, more rational, and more inclusive. Civility and piety are competing and complementary principles of moral integration; each is an important foundation of community. (For more on civility and piety, see my book, *The Moral Commonwealth*, ch. 14.)

I do not mean to suggest that the experience of belonging is irrelevant to justice. Belonging is a mainstay of justice, above all because it generates demands for moral equality. However, to explain

the need for justice, and the workings of justice, we must focus attention on a different aspect of communal life, which we may call mutuality.

Mutuality arises from all the ways people are knit together by interdependence, reciprocity, and self-interest. Its connotations include harmony, sharing, and commonality, as when we speak of mutual interests, mutual aid, mutual obligations, and mutual friends. Mutuality also invokes the distinctive moralities of negotiation, contract, and association, especially trust, good faith, and reliance. It thereby creates the moral infrastructure of cooperation. Thus mutuality finds moral imperatives in diversity as well as identity; in self-regard as well as altruism; in pervasive competition, not preordained harmony; in civility, not piety.

We may need to be reminded that any community draws much of its sustenance from the pervasive facts of interdependence and reciprocity. These very practical conditions account for the voluntary and rational components of community. If people do not need each other, if little or nothing is to be gained from exchanging benefits and cooperating for common purposes, community is not likely to emerge or endure. Think how difficult it is to sustain community among affluent neighbors who can easily afford to pay for the conveniences of everyday life and therefore have no need for help, no need to incur obligations to neighbors. Think of the changes that occur, even among the affluent, when children need playmates or when serious threats to the safety of a neighborhood must be addressed.

We may readily admit that the bonds of community are largely emotional and nonrational. Yet rationality is by no means excluded. It would be strange indeed to think of participation in communities as irrational or self-destructive. This is so in part because we expect communities to be settings within which people *can be rational* about their interests, purposes, and connections. Rationality is enhanced because participation in communities is mediated by participation in families, localities, networks, and institutions. This social fabric does much to preserve autonomy and good sense. Thus the demands of community are not opposed to rational judgment and personal autonomy. On the contrary, any radical abridgment of these values will corrupt or even destroy community.

These thoughts suggest we should be open to theories that find wellsprings of morality, justice, and community in the rational pursuit of self-interest. As a communitarian I have no problem with the idea that self-preservation and self-enhancement are reliable if limited sources of moral ordering. No one acquainted with the realities of civic participation and institutional life will fail to recognize the role of self-interest in underpinning reciprocity, cooperation, and fidelity to obligation.

Of course *raw* self-interest and *destructive* conflict must be tempered by strategies of protection and cooperation. The prime demand is for justice, which adjudicates controversies, settles claims of right, restrains domination, and curbs arbitrary power. Justice speaks civilly to the inevitable diversity of passions and interests. As it does so it brings to bear principles of fairness and of mutual obligation. Justice emerges as a response to practical urgencies; under appropriate conditions we can expect it to eventuate in ideas and practices that express deeper understandings and more comprehensive ideals.

The quest for justice encourages a subtle but significant move from raw, narrow, short-term self-interest to broader, more prudent, more long-run conceptions of what rationality requires. As one “neo-Hobbesian” moral philosopher, David Gauthier, has put it, “justice, the virtue of the self-interested, also curbs self-interest.” This is a gateway to communitarian ideas.

I have gone on at some length about the significance of mutuality for the theory of community in order to correct some misunderstandings about the place of rationality and self-interest in communitarian thinking. Now let us review, very briefly, some of the conclusions we may draw for social justice from the experience of mutuality.

**Restraining Domination.** Mutuality presumes rough equality in the free play of exchange, association, interest, and power. This condition is threatened by the viruses of domination and exploitation. Enter social justice, whose chief office is to protect the weak against the strong. This it does by strengthening the rule of law and by correcting imbalances of social power, especially gross inequalities of wealth, education, and opportunity.

For communitarians the main tenets of pluralism are very congenial. Social power must be dispersed and balanced—but not fragmented. Therefore we seek a richly textured civil society, which has many benefits, including limiting the power of the state. It is often forgotten, however, that civil society depends vitally on law, which is part of government. Furthermore, we need effective government to secure public goods, such as environmental protection, basic science, and much else that is lost if we rely on market mechanisms alone. And we should be sensitive to the potential for abuse of power by all leaders, private as well as public.

**Equality of Opportunity.** When we embrace equality of opportunity as a principle of social justice, we acknowledge the value, within a moral community, of open competition for self-regarding ends. Whatever opportunities there are should be open to all without regard to social origins, including class, race, creed, ethnicity, or gender. Thus equality of opportunity vindicates moral equality. It has the vital but limited objective of overcoming prejudice and systematic subordination while maintaining the legitimacy of differential rewards.

In its elementary form equality of opportunity does not speak to *all* special advantages. A person born into affluence is privileged, but not necessarily because society recognizes an intrinsic moral or social superiority. Nor is the principle violated if some people are luckier than others. When barriers of caste and stigma come down, the door is open to merit but also to good fortune, manipulation, and aggressive competition.

A more robust view of equal opportunity would offer more positive support. A modern opportunity-centered educational system allocates special resources to children of poor families and provides a variety of programs to encourage and sustain hope and self-respect. Thus understood, equal opportunity is not tied to ascription and stigma. It offers a larger vision in which every individual is free to become, and effectively able to become, a fully realized person.

Equal opportunity invites meritocracy, in which advancement depends wholly on ability and achievement. But meritocracy can undermine community. When everyone has the same chance to succeed, no one can take refuge behind oppression and discrimination.

No one can save self-esteem by claiming lack of opportunity. If a person's worth is bound up with achievement it is easy to suppose that high achievers are inherently more worthy than others.

We must conclude, therefore, that a society committed to moral equality needs to offer something more than the opportunity to seek reward through merit. It must find ways of upholding the ultimate worth of persons without regard to differences of talent, effort, or character. To truly embody a communitarian vision, the principle of equal opportunity must be embedded in a larger vision of social justice.

**Controlling Externalities.** To take community seriously is to take responsibility for the consequences of what we are and do. This was a central theme in John Dewey's communitarian liberalism. In more current jargon, we are responsible for the "externalities" we produce when we engage in autonomous and self-regarding conduct. Negative externalities are the costs we impose on the community, such as a degraded environment, or the health care needed because of personal recklessness or negligence. We are also responsible for producing positive externalities, that is, for contributing to good outcomes. The communitarian movement should be in the forefront of efforts to encourage concern for externalities, on the part of corporations as well as individuals. This is not a rejection of autonomy, or of self-interest. On the contrary, those values are presumed. The question is how they are put into practice.

**Richesse Oblige.** From the standpoint of social justice, benefits as well as rights incur responsibilities. People who gain most from the social and economic order, and from the benefits of community, have correspondingly greater obligations than those who get less, and especially those who get the least. This principle is rich with implications for political participation and economic policy. We expect affluent and well-educated voters to take more account of the public interest than people for whom bread-and-butter issues must be paramount. And social justice is at least friendly, and more than friendly, to the policy of progressive taxation. Although progressive taxation is redistributive, it is not a repudiation of unequal resources and rewards. Rather, it is a demand for responsible participation by those who gain most from the contributions of all.

## STEWARDSHIP

Stewardship is the exercise of comprehensive and dedicated responsibility for a valued practice, institution, resource, relationship, or group. From a religious perspective, those who hold power are required to be God's delegates and trustees, steward's of His dominion. More generally, stewardship binds social power to moral ideals. The idea is to do justice by chastening power and vindicating interests, especially interests closely tied to the steward's control.

This principle is more demanding, and more distinctively communitarian, than reciprocity, the reconciliation of interests, or even giving to each his due. The responsibilities of stewardship go beyond mutuality. They call for a deeper commitment to selected objects of moral concern.

Stewardship is most familiar to us in demands for environmental protection. Environmentalists have fought hard to substitute an ideal of stewardship for the unbridled exploitation of nature. Whereas "exploitation of resources" once had a positive ring, as a call to progress, today we are more ready to accept a moral bond between humanity and nature. This bond, and the stewardship it creates, serves the interests of future generations. It is, therefore, a vital aspect of social justice.

The principle of stewardship is at the heart of recurrent calls for corporate responsibility. Are corporate leaders responsible for the well-being of an enterprise, or only for the gains of shareholders? Do they have multiple responsibilities or only a single concern? Does profitability require *maximizing* returns on investment, especially short-term returns? The virtues of a market economy are plain enough, but they do not justify a flight from responsible conduct. The interests of employees, customers, communities, and other stakeholders, as well as the long-run prosperity of the enterprise, must be faithfully and responsibly considered. This calls for an expanded conception of fiduciary responsibility—an ethos of stewardship.

## INCLUSION

In a thriving community people want to be treated as members; and they aspire to full membership. Therefore inclusion is a major

principle of social justice. The most important ways of being included—of participating in community—flow from the basic continuities of life: procreation, child-rearing, kinship, friendship, and work. Religion and politics are distorted if those continuities are weak, or absent, or if they are excessively demanding. The underlying truth is that community brings people together, not as manipulated or mobilized “masses,” but in ways that sustain the wholeness and soundness of personal life.

Two aspects of inclusion are especially important:

**Work.** For most people of working age, the most important road to belonging and self-respect is a decent and steady job. Therefore full employment must be a lodestar of communitarian policy. A jobless underclass is wholly unacceptable, and the poor need more than money. They need effective participation in social life. They need jobs, education, and opportunities for service.

**Cultural Diversity.** The greatest challenge to inclusion—indeed the most important problem for communitarian thought and policy—is the tension between universalist and particularist ideals. Universalist concepts of tolerance, impartiality, the rule of law, and human rights are by no means alien to the spirit of community. They reflect a quest for community that looks outward rather than inward. A crucial step is the embrace of strangers. As we move from the “we” of affinity to the “we” of humanity, more and more people are perceived as of the same kind, sharing a common identity and fate. In this way, the enlargement of community—in nation-building for example—offsets primordial ties of family, tribe, religion, and locality. This broader perspective is decisively reinforced by moral progress, that is, by the ability to understand and the competence to uphold soundly based conclusions of moral and social theory. Among these are universalist principles of equality, respect, and concern.

At the same time, communitarians recognize and defend the virtues of particularism. These virtues include loyalty and piety, especially accepting responsibility for children, parents, and others to whom we owe special obligations. Particularism arises from the experience of connectedness, which makes us aware that we are implicated selves, bound up with lives that we have created and that have created us.

Most people flourish, morally and psychologically, if they have strong and stable attachments to specific families, communities, and ways of life. This accounts for the persistent pull of culture, including recurrent pleas for authenticity and rootedness; and for the backlash that occurs when these needs are ignored or unmet.

There is a dark side, to be sure. Particularism has often promoted arrogance, bigotry, exclusion, and worse. To correct and restrain these evils we rely on universalist norms of tolerance and equality. Nevertheless, the human worth of particular attachments—to family, locality, religion, language, and tradition—cannot be ignored, or easily dismissed.

Our problem is to reconcile these competing perspectives. We must respect diversity without allowing its claims to override those of basic humanity and justice. There can be no set rule for striking such a balance. Too much depends on specific histories and contexts. Nevertheless, some guidelines can be helpful:

First, we can reject the extremes of radical multiculturalism, which would fragment society, and of cultural imperialism, which is indifferent or hostile to local sources of identity and authenticity.

Second, we can recognize that particular attachments are often compatible with, and indeed may help preserve, more comprehensive unities. If people feel that their cultural origins and distinctive identities are respected, they can more readily give their loyalty to a larger “community of communities.”

Third, each perspective must accept some limits. Advocates of universal human rights should limit their claims, especially enforceable claims, to baseline imperatives, such as rejection of genocide, torture, ethnic cleansing, and murder or imprisonment of political opponents. Such essentials should not be confused with fully elaborated ideals of justice and democracy. The latter are more likely to reflect distinctively Western values, and may well be insensitive to cultural diversity.

And finally, we can be more sensitive to the interplay of critical and conventional morality. Because critical morality looks to the authority of reason, it is often identified with universalist ideals. But reason and reflection, properly understood, are empirical as well as

theoretical; they rely on facts as well as arguments. Critical morality can readily appreciate, on the basis of reflection and experience, the moral worth of special obligations and the implicit truths in convention and tradition. This sensitivity is wholly compatible with the idea that parochial experience is not self-justifying, not morally final, not an unqualified good. We must always be ready to criticize a particular culture, including our own, from within in the light of its own premises, and from without in the light of other experiences and more comprehensive interests.

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## Communitarian Bioethics: A Pious Hope?

DANIEL CALLAHAN

As a case study in communitarian frustration, the field of bioethics is perfect. It took its rise in the late 1960s in the individualistic surge of that era, gathered force with the “rights” language of the 1970s, and has ridden ever since on the crest of that great wave called “choice.” Nothing is much harder in bioethics than gaining a serious hearing for perspectives that consider the impact on, or influence of, the community as a whole, or that attempt to examine the moral implications of individual choices. Whether it is a matter of reproduction, genetic engineering, or organ transplantation, individual self-determination is the reigning queen of values. Not surprisingly, mainline bioethics, in its embrace of the regnant individualism of our day, has found a cultural niche for itself that has been remarkably productive. Its analysis and pronouncements are sought by the media, paid at least nodding tribute by government and professional bodies, and fostered in hundreds of university courses and workshops. In the extreme, bioethics is in danger of becoming little more than a yes-man to the doctrines of choice and autonomy.

Perhaps the most obvious example of the dominance of autonomy is in the area of procreation. Mainline bioethics has more or less taken it for granted that procreative choice should be left to individual women, whether the matter be abortion, egg donation, or surrogate motherhood. There has been comparatively little serious discussion of the impact of that bias on the future of the family, childrearing, or the relationship between men and women—all issues of considerable community importance. Yet it is perfectly possible to allow considerable legal freedom for reproductive choices, and at the same time ask about better and worse uses of that freedom, and about which uses (or self-imposed moral limitations) might best serve all of us, not just those who make individual choices. But it is hard to even get that

discussion going, for fear that the introduction of a community perspective is a slippery slope to legal restrictions on choice.

Can this situation be changed? Not easily. It will take a deflation of the claims of autonomy as well as the development of a communitarian perspective that can compete well with the glorification of the individual and his or her choices. As a step in that direction, it is helpful to understand why bioethics took the turn it did and then to see what present conditions might be conducive to change.

#### THE DEVELOPMENT OF CONTEMPORARY BIOETHICS

Contemporary bioethics emerged in the 1960s as a response to two developments—one medical, one cultural. In medicine, the sixties were a time of great technological development. The respirator, kidney dialysis, prenatal diagnosis, and organ transplantation were only some of the changes that swept with a great rush into hospitals and clinics. During that same period, death was moved from the home to institutions, itself becoming a technological event.

At the same time, of course, the cultural changes that we associate with the sixties were making their appearance, and they integrated readily into the new medicine. The demand for self-determination, for the humbling of experts, and for individual rights began to suffuse medical relationships. A special focus of debate was the doctor-patient relationship, which many sought to transform from traditional medical paternalism—"doctor knows best"—into one of equality and patient decision-making authority. The revelation of widespread research abuses with human subjects—the notorious Tuskegee case for instance—lent even more weight to this trend.

While it was less easy to see at the time, bioethics quickly came to a crossroad in the 1970s. One route lay in the direction of increased patient autonomy, the dominance of rights language, the possibilities of enhanced personal choice and a richer life through medical means, and a scanting of an ethic of responsibility. The other route lay in the direction of asking about the cultural and social significance of the medical developments, and inquiring in particular which kinds of technological innovations, with what kinds of choices, might

lead to better human communities. It was these latter questions that helped pave the way for the establishment of two government commissions, one in the mid-seventies, the other in the late seventies, that were charged with examining a wide range of bioethical issues. The prospect of genetic engineering, which could affect generations yet unborn, seemed in particular to symbolize the kind of issue that required a broader and more communitarian perspective than that provided by autonomy.

In the end, the field of bioethics mainly took the first route. It was, and is, the path of least resistance. Americans love freedom and they love technology. They want neither restricted. Every time that those in bioethics tried to slow down, much less stop, a new technology, or restrict its use, opposition was immediately encountered. Whether it was a matter of embryo or fetal tissue research, or the development of transgenic animals, the instant cry was that progress would be threatened and lives damaged or lost by innovations not pursued. For a time, at least through the 1970s, bioethics could serve as a restraint. That did not last for long. By the 1980s, it had become clear that the best bioethics could do was to become part of the regulatory enterprise, urging rules and regulations to curb the worst abuses and the most untrammelled research. Bioethics was far more comfortable in defending individual self-determination than it was in trying to construct a viable social perspective on medical research and technology.

Again and again over the years since then, bioethics has been defeated by what I have come to call the libertarian proposition: *if someone wants something that medicine can give them, they have a right to it unless immediate and demonstrable harm to others can be proved.* By and large, this proposition applies to a good part of American life, but it has a special force in biomedicine. For the latter, marked by constant progress and technological innovation, throws up endless possibilities for changing human life and health. In disease, illness, and death, moreover, biomedicine has a set of targets that no one likes, and that everyone would like to see eliminated or minimized.

Medical progress is almost always accompanied by some hype, whether true or not. And most progress promises to benefit at least some people. If one sees some possible social hazards in the alleged

progress, or doubts that it will be of community benefit, the burden of proof in trying to press forward that view is a heavy one: *Prove* that there will be harm! But the nature of cases with new medical and technological developments is such that there is no track record to point to in order to demonstrate harm; it can at best be a speculative possibility only. That is rarely sufficient to counterbalance the speculative benefits, which are often far easier to postulate than the speculative harms. All it takes, finally, for the progress to go forward is a showing that some people want it, and think they will benefit from it.

It is difficult to exaggerate the force and scope of this libertarian proposition. It has been used to justify fetal tissue and embryo research, genetic engineering, xenograft transplantation, and surrogate motherhood—and almost always used successfully even if it takes a bit of time. Naturally, people will differ on such issues, and that is to be expected. But the libertarian proposition gives biomedical research a powerful advantage in overcoming moral scruples, lays an almost impossible burden on critics and skeptics, and more or less guarantees that technological innovation will rarely be stopped or even slowed for very long. The deck is stacked and thus debate ends almost before it begins.

#### INGREDIENTS OF A COMMUNITARIAN BIOETHICS

Bioethics in its mainline allegiances has allowed autonomy to become the highest value in individual choices. It has also allowed the libertarian proposition to hold sway in the making of societal choices. Not all of the effects of these developments have been bad. Patients should have a choice about their lives and their treatment, particularly at the end of life. Society should not put excessively burdensome obstacles in the way of scientific progress, particularly when health is the goal to be served.

Even conceding these points, however, bioethics has crippled itself in its capacity to helpfully judge, and to create, those ethical conditions conducive to a socially beneficial medicine. If bioethics comes to be seen in practice as little more than a legitimation of individual choice and medical advancement, then it will fail its more important possibilities. This is hardly the place to resolve the an-

cient struggle between individual good and common good, between the desires of the self and the needs of society. But a strong bioethics would be one that found a far better place for the goods of community than is now the case. It has allowed one-half of that necessary tension to atrophy.

What is needed? Three reforms are required: an enriched understanding of individual choice, including a consideration of the way in which culture tacitly shapes choice; a willingness to critically examine the accepted goals of medicine and not just its ethical means; and a broadened understanding of human community and the role of biomedicine in that community.

**An Enriched Understanding of Choice.** Obviously, there are many aspects of our lives where choice is fitting and desirable. Sickness is one of them. Our health, perhaps our life, may be at stake, and we alone as individuals are in the best position to know what will serve our lives best. But if it is choice itself that is touted, with no attention to the content of the choice, then we do not do honor to our autonomy.

How ought I best use my freedom? What ought I want to live for? What obligations do I have to others when I exercise my autonomy? These are the kinds of questions rarely addressed in bioethics, perhaps out of a misplaced deference to the false idea that a private decision is one that may not, and ought not, be judged. But it is in fact exceedingly difficult to think of many personal, or so-called private decisions, that do not affect others. Our private procreative choices bring children into the world. Our private choices about the disposal of our organs after death can mean life or death for another. Our private decision to have treatment terminated can affect our family and our friends. Our choice about the use of health care resources can have reverberations in the lives of others. More broadly, individual decisions in time cumulatively create a culture. We must decide in what kind of culture we want to live.

Bioethics would do well, then, to begin examining personal and private choices. This need not be done in order to pass hostile judgment on each other, but simply in order that we have a common moral discourse on how best to live our lives, and in particular how best to ensure that our personal choices not harm, and possibly ben-

efit, others. When it focuses on the problem of justice, such as the rationing of scarce medical resources, bioethics well understands that we live a life of community with others. But that insight is just as valid and pertinent when considering the morality of autonomy and self-determination.

Often overlooked by advocates of choice as the main way to solve ethical dilemmas is the fact that the background culture shapes the direction of choice and its contents as well. People have to work with the choice given them, and no choice comes without cultural baggage, shaped by geography income, class, and education. The way people think about family size, or the control of their dying, or the use of Prozac, is likely to reflect the world in which they live and the values that shaped their lives as they were growing up. Bioethics too often neglects that social perspective on choice, which at the least should be sobering to those who think that choices appear on the horizon uncluttered by background values.

**Medicine: Ends and Means.** The formal, historical purpose of medicine is the promotion and preservation of health. Modern medicine, however, has picked up a number of other values that create a wide range of social problems along the way. The most notable of these is that of progress, which leads medicine to entertain open-ended, ambitious agendas about the possibilities for improving health. When that is combined with a broad definition of the meaning of health—that health is synonymous with individual happiness, for instance—then the stage is set for the medicalization of many human problems once thought no part of the medical enterprise, such as the anxieties of ordinary life or substance abuse.

The important question here is how to make medicine serve the good of the community and not be expanded just to satisfy individual desire or the profit of the marketplace. Individualistic medicine, oriented toward the use of medical means to satisfy personal needs and desires, can gain no hold on the needs of the community. Environmental threats to health, for instance, get little money or attention; they seem abstract and remote to most people. Only a medicine that can see its purposes as transcending what individuals want—which sees itself serving the common good of health, not individual definitions—holds out that possibility.

The public health tradition, long ago split off from medicine as a health discipline, has such a communal perspective. In addition to its traditional emphasis on the control of contagious disease, it has more recently stressed health promotion and disease prevention. The emphasis falls heavily on population health rather than individual health, an emphasis fully justified by decades of evidence showing that the general health status of a society is far less affected by the quality of its health care than by its background social and economic conditions, including its public health system. A communitarian bioethics would seize upon that knowledge.

**Medicine and the Human Community.** Changes in medicine and health status affect not only health itself, but also the way life is lived in society. The advent of effective contraception and safe abortion has changed the way women live their lives just as the enormous increase in life expectancy has changed the way people now live in old age. By focusing on the morality of individual choices—people simply presented with situations requiring choice—little attention is paid to the shaping of those choices in the first place. At the same time, when medical progress is focused on individual needs, it does not take adequate account of the aggregate—what might be termed the ecological—impact of discrete medical advances. Inevitably, for instance, any decrease in death rates from cancer and heart disease among the elderly will be more than matched by a corresponding increase in death rates from Alzheimer's Disease. Death can only be moved around from one cause to another, not eliminated.

A bioethics oriented to the community would begin looking at the way medicine changes life, asking if we as a community want those changes. Artificial means of reproduction that allow the possibility of nontraditional families is a case in point: to what extent will our society be better off developing a range of new procreative choices? More generally, because of the economic power of modern medicine, it will be important to think about the place of health as a human good among other human goods. In the United States, health has been able to capture a disproportionately large portion of the GNP. Not only has this led to inefficiency—many countries do much better with much less—it also leads to a form of deifying health, usually at the

expense of education, housing, and other societal needs. A communitarian bioethics, taking the community rather than the individual as its point of departure, might set very different priorities for the health care system.

For all of the complaints against managed care, it does offer the possibility, if thoughtfully developed, of providing a more integrated, community-oriented means of delivering health care. The ideal of managed care is the integrated care of the patient at an affordable price. Many of the complaints against it have been based on its threat to individual choice, whether that of doctors or patients. But the managed care movement understands that, if good health care is to be widely affordable, it must set limits and prudentially ration care. It must also set boundaries to individual choice in the name of the good of all members of the plan. It must, in short, challenge the supremacy of autonomy that has been the historical mark of fee-for-service medicine. This is not to say that managed care will live up to its own ideals. They will be threatened by a bottom-line mentality in some cases, and by a narrow bureaucratic mentality in others. Nonetheless, managed care has the potential to make an important communitarian contribution.

Even the doctor-patient relationship, which was the point of departure for an ethic of autonomy in the 1970s, is due for a course correction under managed care. Doctors are not plumbers or hired help. Their vocation is to serve our health and well-being, not our autonomy. This can only be done if doctors are allowed to have their own view of what constitutes our good. That view may or may not agree with our own, and then dialogue and mutual education are in order. "Patient knows best" is not much better than "doctor knows best." Often enough neither may know what's best. But the neglected and traditional value of beneficence should not be allowed to atrophy in the face of "choice." Responsibility on the part of doctors means that they are to serve and help us, not just defer to our autonomy.

## Public Housing Safety versus Tenants' Rights

DENNIS SAFFRAN

On the evening of Sunday, August 27 of last year, 4-year-old Shamone Johnson was caught in the crossfire between two rival drug gangs and killed while roller-skating outside her godmother's home in a Brooklyn housing project. Recent actions by Congress and President Clinton, and by a federal judge in New York, will finally make it easier for public housing authorities to protect poor children like Shamone from this kind of vicious drug-related violence. Yet these actions are staunchly opposed by some groups that claim to be champions of the poor.

In March, the president signed the Housing Opportunity Program Extension ("HOPE") Act of 1996, which strengthens the ability of federally subsidized housing projects to screen out and evict drug dealers and other criminals who prey on their law-abiding neighbors. And he announced a "One Strike And You're Out" policy, which encourages housing authorities to take full advantage of these new powers. Under the policy, an authority's receipt of federal funds will be based, in part, on its use of a lease that clearly provides that any drug-related or other serious criminal activity by a member of a household is grounds for eviction. The policy also encourages housing authorities to more effectively screen applicants for admission by using access to federal and state criminal conviction records provided by the HOPE Act.

The "One Strike" policy was drafted by Housing and Urban Development Secretary Henry Cisneros, one of the more liberal members of the Clinton administration. He noted that "the number one group of people" demanding such toughened public housing eviction and screening rules "are the residents themselves," who have been forced to "put children to sleep in bathtubs" (to protect them from stray bullets) and otherwise abandon their rights and their dig-

nity. Yet the policy was branded as unconstitutional by the American Civil Liberties Union.

While the One Strike policy has not been officially challenged, a court case in New York earlier this year involved similar issues. In April, the New York City Housing Authority (the nation's largest provider of low-income housing) and tenant leaders represented by the American Alliance for Rights and Responsibilities prevailed in their attempt to modify a 25-year-old federal court decree that had made it particularly difficult to evict drug dealers from public housing in New York. The 1971 consent decree in the *Escalera* case required the Housing Authority to go through a lengthy two-step eviction proceeding lasting up to two years. This made it impossible for the Authority to take advantage of New York State's "Bawdy House Law," which allows for expedited eviction proceedings (without abandoning due process protections) in drug cases. Efforts by the administrations of both former Mayor David Dinkins and current Mayor Rudolph Giuliani to modify the 1971 decree were vigorously opposed by the Legal Services Corporation and the Legal Aid Society, who argued that no change was called for because "the incidence of drug-related crime is not significantly different today than in the 1970s." This argument was squarely rejected both by the court and by the elected tenant representatives, which intervened in the case in support of modifying the decree.

#### INNOCENT GRANDMOTHERS

Opponents of these reforms have largely abandoned the argument that the drug dealers themselves have a right to remain in public housing. Rather, they raise the specter of innocent family members who may face eviction as the result of the illegal activity of a member of their household. This "innocent grandmother" argument seems compelling, but it ignores a simple and more compelling reality: *public housing is a scarce resource available only to a fraction of the poor people who desperately need it.* This means that criteria other than need alone *must* be used to determine who gets this housing. There are three poor families on the waiting list for every unit of public housing, and the vast majority are fully law-abiding and therefore would not endanger the safety of other tenants. Thus, as John Atlas and Peter Dreier have noted in *The American Prospect*, the screening and evic-

tion of problem families “does not exclude more tenants; it simply gives priority to certain tenants on criteria other than first come, first serve.”

In this situation, the most important question is not whether a grandmother or other family member of a drug dealer is completely innocent or tacitly acquiescent, but rather how society should allocate scarce housing resources in order to do the most good and cause the least suffering. Looked at in this way, the choice between a poor family that, however innocently, has let its apartment be used as a base of operations for terrorizing its neighbors, and an equally poor family on the waiting list that would not pose such a threat, is a painful one but a clear one. As President Clinton stated in announcing the One Strike policy: “The people who are living [in public housing] deserve to be protected, and the good people who want to live [there] deserve to have a chance,” and it is therefore “morally wrong” to allow households harboring criminals “to use up homes that could make a big difference in the lives of decent families.” The same point was made in *Edison v. Pierce* by a federal appellate court in upholding the screening of undesirable tenants from participation in the Section 8 housing voucher program:

At the heart of this case is the fact that there are not enough... housing units to accommodate all who are eligible.... At issue are the rights not only of those...who were denied...benefits but also of those who received those benefits in the [ir] stead.

But, opponents respond, why not require only the criminal to move rather than evicting the entire household? In fact, both the One Strike policy and the New York Bawdy House Law that was at issue in *Escalera* do allow for such individualized discretion in the case of tenants who were genuinely unable to prevent the use of their apartments for criminal activity. In such situations, the family may be allowed to remain on the condition that it agree to a permanent order of exclusion barring the offender from the premises. The hard truth, however, is that this approach needs to be used sparingly because it usually does not work—and it is actually least likely to work in those cases in which the plight of the tenant-of-record is the most sympathetic. The drug dealers, gang members, and other criminals subject to these orders of exclusion are not the kind of people who tend to have a lot of respect for such documents, especially since the sanction

for violation is directed against their families rather than against them personally. And it is precisely those thugs who bullied, intimidated, and if necessary beat their families into complicity in their illegal activity—that is, those whose families are most truly innocent—who are the *least* likely to remain away from profitable turf out of either respect for the law or tender concern that grandma might lose her apartment.

#### RESPECTING DUE PROCESS—AND RESPECTING THE POOR

The One Strike policy and the Bawdy House Law provide tenants with the right to a hearing on the charges of illegal activity prior to eviction, but do not require a criminal conviction on these charges. Opponents point to this as a grievous violation of rights—an argument that has a surface appeal but is ultimately specious. As stated by Assistant Attorney General Walter Dellinger, a former law professor with a reputation as a staunch civil libertarian and liberal:

Eviction is a civil, not a criminal matter. Tenants in both public and private housing are subject to eviction for violations of appropriate lease terms, whether it is keeping an unlawful pet or violating any of the other reasonable terms of a lease. Lease terms prohibiting [criminal] activities like this are no different. The fact that no conviction is required does not leave public housing authorities free to evict tenants on the basis of speculation or suspicion [since] tenants have...the right to a hearing.

The criminal standard of “proof beyond a reasonable doubt” has never been required in eviction proceedings, or in any other civil proceedings based on conduct that could also be criminally actionable. And, as a practical matter, allowing a drug-dealing or gun-toting tenant to remain on the premises for months or years while awaiting the outcome of a criminal proceeding would largely undermine the goal of removing dangerous persons from public housing, while increasing the very real risk of witness intimidation.

Perhaps more importantly, the two main arguments against toughened eviction policies—that public housing tenants should not be held responsible for the illegal activities of members of their households, and should not be subject to eviction for these activities based on the same civil standard of proof applicable to evictions from pri-

vate housing—also share a flaw more fundamental than those discussed above. That flaw is the patronizing and destructive refusal to apply to low-income communities the same standards that maintain social order and well-being in middle-income neighborhoods—and that for many years did so in poor areas as well. It is not uncommon for tenants to be evicted from private housing based on the misconduct of their children in violation of the lease, regardless of whether the misconduct has been criminally proven or even constitutes a crime. In the middle-income apartment building in which I grew up in Queens, New York, for example, there was a three-strikes-and-you're-out policy for petty mischief like defacing property or even ball playing in the halls. (A one-strike policy for serious criminal activity was implicit.) This policy *did* have a harsh impact on the often blameless parents of troublemaking children, but it allowed the rest of us to grow up in decent and safe surroundings.

Similar and even stricter rules of conduct, punishable by eviction, were enforced in public housing in that era (the late fifties and early sixties) and, not coincidentally, the projects then still provided about as good an environment in which to raise children as did any middle-income development. Indeed, public housing worked in this country for 30 years—filling a void left by the private market and providing tens of thousands with a safe, clean, and stable oasis in which to gain a foothold out of poverty. This is an inconvenient bit of history for both the free market absolutists who need to face the fact that a government program worked, and the doctrinaire liberals who need to confront why it *stopped* working. It stopped working when well-intentioned civil libertarians, responding to genuine excesses in which public housing rules had been applied in arbitrary and sometimes racially insensitive ways, pushed the pendulum to the other extreme. In a series of court decisions and decrees, followed by legislative and administrative changes that interpreted these decisions as expansively as possible, the civil rights and civil liberties bar won victories that seriously restricted the ability of housing authorities to achieve certain previously accepted goals: to screen out and evict criminals and other undesirable or disruptive tenants; to give preference to intact and working families; or even to maintain a healthy balance between the working and welfare poor. The unintended result was a breakdown of the social order that had allowed public housing to succeed in the first place.

The One Strike policy and the *Escalera* decision are two big steps towards moving the pendulum back to the center and restoring public housing to the success story that it once was. These developments offer the hope that some day little children growing up in the projects may once again enjoy the same right that my own 4-year-old daughter and other middle-class children now have to play outside their homes without fear of random, violent death. Why should advocates for civil liberties and the poor oppose that?

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## On Making Lawyers Truly Officers of the Court

*The following is excerpted from a discussion about legal ethics hosted by The Communitarian Network. The panelists included Judge S. Jay Plager, U.S. Court of Appeals (panel chair); Amitai Etzioni, The Communitarian Network; Dean Anthony T. Kronman, Yale Law School; Lloyd N. Cutler, Esq., Former Counsel to President Carter and Former Special Counsel to President Clinton; Judge Paul L. Friedman, U.S. District Court; and David Andrew Price, President for Litigation Affairs, Washington Legal Foundation. Other discussants were audience members. The presentation of the discussion has been modified. The full text is available from The Communitarian Network at 1-800-245-7460 or at [comnet@gwis2.circ.gwu.edu](mailto:comnet@gwis2.circ.gwu.edu).*

JUDGE PLAGER: One need not be a particularly acute observer of the American scene to recognize that there is a widespread concern among the public about the state of American society. Much of that concern has, in recent time, focused on the legal system. We are all familiar with the current icons: the trial of the Menendez brothers, which gave new life to that old joke about the parent killer who complained about the hard life that orphans have; the million-dollar cup of McDonald's coffee; the multimillion dollar BMW that got repainted when it was new; and, of course, the O.J. Simpson trial.

Less in the public eye, but well known to practitioners of the law and judges, are behaviors such as a developing lack of civility among litigators, reflected in deliberate efforts to delay and hinder the resolution of a case; abuse of the discovery process; lack of candor in dealing with the court; distortion of the facts in an appellate brief; and the cropping of quotes from precedents making them appear to say something they do not.

What brings us here is a more fundamental debate that centers on the basic role of the lawyer in society, and that focuses on the tension between the lawyer's duty of zealous advocacy for the client's

cause on one hand, and the lawyer's professional responsibility to the larger society—the lawyer's responsibility as an officer of the court—on the other hand. Is the perfect lawyer like the perfect butler, an amoral factotum whose only responsibility is to serve the client with perfect loyalty, limited perhaps only by what is lawfully permissible? Or does the lawyer, like the butler in Ishiguro Kazuo's novel *The Remains of the Day*, have to wrestle with the question of whether the client's morality ultimately becomes the morality of the loyal servant? Can the butler fire the Jewish house girl because Lord Darlington is an anti-Semite without himself sharing responsibility for the immorality of the act? Can a lawyer assist a client who is a murderer in creating a defense just because it may be a winning defense, when there may be nothing in reality to support it without herself becoming tainted by the act? On a more pragmatic level, if we share the oft-heard view that the balance between the roles of zealous advocacy and officer of the court has shifted too far to the side of loyalty to the client's will and too far from the side of responsibility to the community, are there specific steps that can be taken by individual lawyers, by the organized bar, by judges, and other institutional players to move the balance a notch or two back to where, perhaps, it should be?

PROFESSOR ETZIONI: Because of the problems you mentioned—Menendez, incivility, etc.—I came to apply communitarian thinking to the following question: *What is the lawyer's place in this continual balance between individual rights and the common good?* It did not take an enormous amount of research to conclude that possibly the balance was not perfect and that there might be some room for a dialogue about how to correct the imbalance.

I probed this issue a little by writing a letter with a hypothetical based on a real case: Assume there is a case in which a physician wired eight women to a machine in his office, told them that if they were to move they would be paralyzed for life, and then proceeded to molest them. Then, when they brought suit, the defense argued—without any evidence—that the women were trying to extort money from the physician. The hypothetical assumes that there was no basis for the defense's claim. The question we posed was: Was that proper conduct, or is allowing theories to be presented in court without any foundation an example of the aforementioned imbalance?

A former head of the ABA responded as others did:

While your report of the sexual molestation defense on its face is irresponsible, I cannot agree that the rights of the defendant should in any way be changed or modified. Rather it is my judgment—and conviction—that *only* through full protection of defendants' rights is the total community best served. For it is only by emphasizing the rights of the least of us that the rights of all of us—the rights of the total community—are preserved.

Now, this is the question before the house. It is not should we diminish the rights of the defendant, but rather, are there any other considerations which should come to bear? And then you come to a very curious phenomenon for sociologists, because if you really take this lawyer's position, and the others just like it, on the face of it, you'll feel there are no interests guiding the conduct of a lawyer other than serving the client. But, one may respond, there are books full of ethical rules and codes of conduct by the legal profession. There are also innumerable laws.

So perhaps our initial focus was wrong. It is not largely a question of additional codes of ethics or refinement of the law, but it is a question of the *moral commitments* that underlie such bodies of ethics and law. And thus we must ask: Have they weakened or have they always been weak? Are they sufficient or where is the major deficiency? What can we do to help provide the kind of moral muscle that we need to lift the weight that implementing these ideas requires?

#### HIRED GUNS?

JUDGE FRIEDMAN: When I was president of the D.C. Bar we proposed to the D.C. Court of Appeals changes in the rules of professional conduct following on what the ABA had done a few years earlier. As we were looking at rules about conflicts of interest, revolving doors, candor toward the tribunal, and so forth, somebody said to me, "Take a close look at Rule 1.2." And I said, "What's Rule 1.2?" Rule 1.2 is called the scope of representation. And it deals with objectives and means and our committee suggested to us that we should reject what the ABA had said and we should say that a lawyer shall abide by a client's decisions concerning both the objectives of the

representation and the means by which they are to be pursued. Well, objectives are one thing. What does the client want to accomplish? Why is he hiring a lawyer? He or she wants a divorce. He or she wants to sue for breach of contract. That's the goal. But the means are how to get there, what questions to ask in a court room, how to react and interact with your adversary. That was a different question.

The question came down to whether a lawyer is a hired gun or whether a lawyer is hired for his or her skills and judgment and advice and counsel, and not just to do the client's bidding. It was highly debated and was the one issue on which we could not reach a conclusion. Fortunately, the Court of Appeals did the right thing and said the objectives are up to the client, but the means are up to the lawyer in consultation with the client.

DEAN KRONMAN: Actually, Rule 1.2 of the Model Rules of professional conduct is extremely interesting. It describes a clean division of labor between the lawyer's responsibilities, which are those that pertain exclusively to the selection of means, of instruments, and of techniques for the implementation of ends, and the client's responsibilities and privileges, which include, among other things, the choice of the ends themselves. The client sets the ends and then the lawyer picks the pathway to them. That's the regime, the division of labor, which Rule 1.2 codifies. But it's important to remember that Rule 1.2 is already a halfway house well down the road from an original, older conception in which lawyers were thought to have a significant responsibility for helping clients frame ends and pass on their worthiness or meritoriousness. So the reduction of the lawyer to a tool, which is what 1.2 essentially does, is itself already, at least on one view, an abandonment of another and more ethically demanding conception of what lawyers ought to do.

But, I would like to return to our discussion of incivility. There's another and I think deeper sense to the term, which it is important for us to focus on here this afternoon: the loss of an appetite for public-spiritedness and the weakening or attenuation of the sense of responsibility to the good of the whole. That, I think, is what underlies civility, and it is what really constitutes the core of our subject.

Lawyers, American lawyers at least, have always understood themselves to have twin responsibilities: on one hand to represent their clients effectively, even zealously; and on the other, to uphold justice, to preserve the integrity of the law and its institutions, even to perfect them, to engage in law reform and other programs of that sort. These responsibilities often pull in opposite directions and the moral agony, the moral grandeur, of law practice consists, in part, in trying to live a life of integrity at the point of tension between them. But if you look at the way in which the balance between these competing claims is struck today, I think it's fair to say that there has been a significant shift in the direction of an increased emphasis on the first of these two duties and a watering-down or attenuation of the second.

JUDGE PLAGER: An example of just this problem comes from a recent conference sponsored by the ABA on civil practice and procedure. One of the lectures was on opening arguments, and this lecture was given by a renowned trial attorney, who told this ABA-sponsored conference, "The first thing that will happen is that the judge will direct counsel to inform the jury of what you expect to prove." And this led to the first of his 10 rules. His first rule was: Ignore that direction. Your interests and the judge's are not congruent. Push the envelope. Argue the case right from the beginning.

I was less surprised by his rule than I was by the fact that in the entire audience, including the panel that was participating, not one person said, "Hold it, hold it, how can you say that?" Nobody reacted as if there was anything troubling about that. I must confess I was troubled, but I didn't jump up and scream or anything because I didn't think I should. Am I crazy? Am I missing something? Is that a troubling instruction or is that the way it is and the way it's going to be?

MR. CUTLER: Despite that attorney's instructions, we must not forget that reasonableness and restraint and avoiding exaggeration still pays with the judge and the jury. There is this old story of Judge Fahy, when he was the Solicitor General. Dean Acheson writes about this in one of his books. Fahy was always ready to admit the weakness of his argument. In one particular case that Acheson describes, as Fahy is just beginning his argument as Solicitor General, one of the justices

asked the \$64,000 question in the case. And Fahy responded, “Mr. Justice, many is the time I have asked myself that question. I have no really satisfactory answer, but the answer that satisfies me the most is this.” As Acheson put it, from then on, Fahy and the justices were walking down the garden path hand in hand, searching for the truth. I think it’s still true that the lawyer who never admits a flaw in his case, half the time, probably more than half the time, is going to be beaten by the lawyer that does what Judge Fahy did.

#### A DEFENSE OF ZEALOTRY

PROFESSOR TOM MORGAN, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL: I would like to return for a moment to the issue of rules and to the “renowned trial attorney” that Judge Plager spoke of. The problem is not that the rules don’t deal with the issues; it’s that the lawyers don’t follow the rules. Lawyers are pushing the envelope. What has always bothered me when you watch a football game is that on the instant replay they will show that the player hit somebody out of bounds or he did something else improper and the announcer will say, “Oh boy, he got away with one. The referees didn’t catch that.” We have developed a culture that says that the people who are really sharp are the people who get away with violating the rules. I don’t know where that ultimately leads us, but I think it is helpful to understand that the problems with lawyers is not that the ABA moved the rules from an aspirational to a concrete version. And it isn’t a problem of means and objectives. It is fundamentally a problem of the character of lawyers, individual character, and the culture in which they work.

PROFESSOR ETZIONI: True. A judge friend of mine explained to me the lecture a lawyer gives the first time he meets a client, telling the client that he had better not force the attorney to know he is guilty. A not guilty person deserves representation, that’s beyond discussion. But maybe the representation of others should focus on mitigating circumstances to which the court should be alerted, and not on trying to convince the court that a person is not guilty, when one knows he is guilty.

MARK SMITH, ATTORNEY, WILLIAMS AND CONNOLLY: I disagree. In my early days of law school, I was introduced to the concept of legal fictions. The whole criminal justice system operates on some large-scale fic-

tion that every defendant is innocent, or rather is presumed innocent. Therefore, I resist a hypothetical that says, "We know he's guilty." No lawyer has the authority to know a client is guilty. That authority is vested in the system. Perhaps when one discusses the commonly used sense of guilt, it is different. However, legal guilt is the only guilt we act on in our society. If we are going to act on actual guilt, then the only one who can really act on that, if you subscribe to notions of a deity, is the deity. The notion of guilt is an authority issue, and the authority to assign guilt lies with the system.

Is it within that lawyer's legitimate authority to say, "I will deviate from the law—which actually cuts in favor of my client—based on my personal moral convictions?" Your client did not decide to participate in your morality when he approached you as a lawyer. When the law allows you to do something, then you should occupy the law on behalf of your client. There's an implicit contract: This is what I'll do for you as a lawyer; I will occupy the law on your behalf; I will at least give you that.

Now you're asking me not to occupy the law on my client's behalf?

JUDGE PLAGER: No, no. I'm not asking you not to occupy the law. I'm only asking you whether it is a sufficient moral conclusion for the lawyer to say, "I did this for my client and therefore there is no moral ingredient that can redound to me." Or, does the lawyer have to say to the lawyer's self, "I have an independent moral guilt, I may do it anyway, because winning is more important than anything else, but I recognize that there is a question, a moral question, that I as a lawyer ask independently of what my client's interests are?" I think that is an important issue.

PROFESSOR ETZIONI: I want to add, though, that it's not only a question of your conscience, which hopefully you have even if you are hired by somebody, but it's even a question of where we started. Is that the only obligation of the lawyer: to use the law for the client? Or are there some other things that come into play?

MR. CUTLER: Can I cite the English case, the English rule on whether you should go on defending a criminal defendant that you think is

guilty? It's called the Queen against Courvoisier. Courvoisier was the butler and the issue was did the butler do it. His barrister in the middle of the trial is interviewing the client who tells him that he did do it. What was the duty of the barrister under those circumstances? He went to a judge—not the judge trying the case—for advice, and this judge said to him, “You go right on defending the bastard.” I think that's our rule, isn't it?

JUDGE PLAGER: That is our rule, and I think you are quite right in stating that the classical explanation is no lawyer can judge the guilt or innocence of his or her client, only the court can do that. Anybody who deals with reality has trouble with that explanation, but that is the way the law works.

MR. CUTLER: While I somewhat share your concern, I would like to add a word in defense of “zealous advocacy” and “incivility.” I do think there are lots of unscrupulous and certainly uncivil lawyers, and we need to keep on doing everything we can about that. But lawyers still, on the whole, do a lot more good than harm, even the unscrupulous and uncivil ones among them. I'd say that even about the plaintiff's lawyers who have money and contingent fees on their minds from the very beginning. Remember that they are the ones who led the attack on the tobacco companies. There are very few of them you'd admit to a lawyer's hall of fame, I would think, but they have certainly done some good in the course of their efforts.

Take Ralph Nader, who we would all agree has done a great deal of good. He's a very uncivil person, at least in the sense that he believes in personifying the other side—making personal attacks on people who either are the heads of the companies he's going after or the lawyers of the companies he's going after. I've borne the brunt of that myself on occasion. But certainly, if you accept my characterization of him as uncivil, he's clearly a person, all of us would agree, who has done a lot of good. It's almost always true that on a wave of reform or revolution, it is the uncivil, to some extent the unscrupulous people, who are leading the pack, leading the drive toward reform.

## BRING ON THE JUDGES

PROFESSOR ETZIONI: An agenda point. We are trying to nourish a conversation on a national level. What is missing is a peg around which further discussion can be centered. One such a suggestion is: We should ask all the judges to be more active without ruining the adversarial system. I understand from my readings that judges can be more or less active within the system. If we could come up with some area where there is relatively wide agreement, that would be a good start, although not a magic bullet. It focuses the conversation and would help us carrying this dialogue out of this forum.

JUDGE FRIEDMAN: Well, one of the things that the judge has in his arsenal of weapons is the ability to call a lawyer on the carpet in the presence of the jury. Now, when a jury is present I try never to show any favoritism toward one side or another—by facial expression or tone of voice. I'm more animated in a non-jury trial and argument before the court than when a jury is there. But I will inevitably say at the beginning of a closing argument, "You know the rules on closing arguments. You know where the line is. I hope that neither side will feel the need to object because you will both follow the rules. But if you really feel that somebody is not following the rules, you stand up and object and if I feel either of you is violating the rules, I will let it be known." People don't want to get interrupted, particularly in their opening statements or closing arguments, which is their chance to convey their personality and their credibility to the jury about what the case is all about. I think a judge, in those situations, does have a tremendous amount of authority and if it's clear to the lawyers that you will use it, then you will have to use it less often.

JUDGE PLAGER: That comes back to a point I made earlier. On the court of appeals on which I sit, of the currently 11 active judges I think I could safely say that 11 of them are deeply concerned with the behavior of many advocates before us, either in their written submissions, in their oral submissions, or in the way they use the materials—and yet we are frustrated. Perhaps I shouldn't speak for my colleagues, so I'll speak for myself on this. I am certainly frustrated by the amount of time and effort necessary to sanction someone who is doing what the "renowned trial lawyer" said, which was keep pushing, get as close to the edge as you can, and if you get smacked back a little bit,

that's okay, but keep pushing. The effect is that the envelope is now very large and very pushed out of shape, and it's very hard to push it back. In a couple of cases we have sanctioned lawyers, but you know we spent a lot more time dealing with the question of the sanctioning of a particular lawyer than we ever did in deciding the case.

MR. PRICE: Is sanctioning really the only alternative? Using your power in the courtroom short of sanctioning, I think, can be very efficacious. Even on the court of appeals, if you drop a footnote about your displeasure with a brief, that is going to have a long shelf life. It's going to make a difference.

The notion of a moral voice is one that has been very helpfully spoken of by Professor Etzioni. Yet there are a lot of people—probably over-represented among lawyers—who are inclined to shrug off the voice of the community. For people like that, moral approbation or disapprobation is probably ineffectual.

But there is someone whose approbation or disapprobation *is* effective—whose views greatly affect the self-interest of the lawyers—and that's the judges. The judges are not just enforcers of rules of professional responsibility and other rules in their courtroom; through a variety of informal means, they can exert pressure to make lawyers before them live up to standards that they deem appropriate. This power isn't infinite, but there's a lot of truth in Judge Harold Rothwax's observation that judges often get the lawyers they deserve.

#### RESTORING CIVILITY THROUGH SHAME

DEAN KRONMAN: We agree that it is not going to be enough simply to enact another code that has more public-spirited language in it. No set of words we can construct and persuade any legislative or quasi-legislative body to enact will be sufficient. By themselves, mere words are bound to be ineffective because what is responsible for the demise of public-spiritedness in the profession is a sea-change in its culture, and until that culture is transformed, words are just cast in the wind and can make no real difference at all.

What we're really talking about here is a project of cultural reform, and it's a serious project because the culture in question is not merely the culture of courtroom lawyers. It's the culture of the legal

profession root and branch, in all of its departments. Everywhere you look in the legal profession today—not just in the courtroom but in the big firms and, I'm afraid I have to say, in our law schools too—everywhere you look you see the same withering away of the ethic of public service. Until that's restored in the profession generally, the sanction of shame, of dishonor—which is what really puts teeth into the requirement that someone behave in a civil way—will remain feeble and ineffective.

When it comes to suggestions, I think it is always best to stick to what you know, and in my case that's legal education. The mental and moral habits of lawyers in this country are importantly shaped—not decisively or finally but importantly shaped—by their experience in law school, which is their first contact with the profession, their introduction to its folkways and habits. If America's legal educators can begin to take more seriously the responsibility of educating their students into a moral sensibility that's declining in the profession, then we may begin to see some modest improvement in the situation. Law school is where the professional culture that lawyers carry around in their heads begins to take shape, and if it gets off to a bad start here, the project of repairing it later on is close to hopeless.

## Freedom, Solidarity, Individual Responsibility: Reflections on the Relationship Between Politics, Money, and Morality

RUDOLF SCHARPING

*The following excerpts are from a paper presented at the 1996 Communitarian Summit in Geneva, Switzerland. Rudolf Scharping is the Deputy Chairman of the Social Democratic Party of Germany. The full text is available from The Communitarian Network at 1-800-245-7460 or at [comnet@gwis2.circ.gwu.edu](mailto:comnet@gwis2.circ.gwu.edu).*

The communitarian movement is attracting growing public interest and is becoming increasingly popular. By contrast, the era of social democracy, especially in Germany, is said to have been over by the early 1980s. Social democratic principles, it was claimed, had become an integral element of German political culture; as a result, it was argued, its very success had made the Social Democratic Party redundant. The collapse of the so-called “socialist world model” caused confusion in some social democratic circles: The final victory of capitalism, or, even the end of history?

Recently, however, there has been some movement, and blatant attempts are being made to turn back the clock, not only in Germany. Instruments which those who had written off social democracy believed had been locked away for good are now being used again. Capitalism is changing in a way which makes its true nature become increasingly apparent. It is showing its old face again. Society, too, is dominated to an ever greater degree by the maxim that if everyone takes care of themselves, everybody will be taken care of.

It was under similar circumstances that communitarianism began as an intellectual, moral, and affective movement in the United States. It emerged from within a morally bankrupt society characterized by rampant and apparently uncontrollable egotism. Academics working in the field of ethics had effectively withdrawn from the

fray, choosing instead to focus on formal principles which, while following a stringent logic, provided little practical guidance. Most importantly, it failed to reach the affective level that is an essential element of social relations. Focusing on this very important—and much neglected—area of social interaction, communitarianism seeks to revitalize the dynamics of community life. It aims to combat moral decay by educating and informing. Whether communitarianism represents a stable bulwark against the functional requirements of the economic system and the legacy of the hyper-individualistic era is not for me to judge....

#### MORALITY DOES NOT JUST HAPPEN

The issue of declining moral standards is as old as human civilization. Very often, what is later recognized as a shift in values is perceived at the time to be a loss of values. While traditional values are no longer valid, the new ones are still in a state of flux. At present, the general public is disenchanted with politics and the political parties; and community spirit, too, is in rapid decline. Society, or so it would seem, has lost its collective ability to say: "That is unacceptable." *Modern society has dispensed with the traditions that provided collective justification for certain forms of behavior or responses, but that did not require justification themselves.*

As even the most ardent advocates of human emancipation would concede, while this development confers greater liberty or happiness, the social context of human activity is withering away. In the United States, more and more people are taking up bowling as a leisure pursuit. Yet fewer and fewer people do so by joining a bowling club. The focus of Christian life, too, is shifting away from the parish. Our community spirit is atrophying and social solidarity is in decline. There is an urgent need for social action. This is the communitarian view, and it is a view that is shared by my party.

Christian Democrats in Germany, too, noticed early on that something was going wrong in the state of Germany. In an effort to counteract the decline in moral values, which they especially lamented, they launched a broad-based campaign entitled "The Courage to Educate," calling upon parents to bring up their children in line with traditional values. Their intention was to reconcile the brave new

world of modern technology with the moral standards of the good old days. Despite having been in government for over 14 years, they have failed to achieve this goal. They have failed because they believed that the problem was due to individual upbringing. While this is undoubtedly a factor, the roots of the problem lie, above all, in our social order.

I will focus here on the relationship between social order, human solidarity, and community spirit. As Social Democrats, we too have a great deal to learn about these issues. The old left-wing vision—that a just order would automatically create a just citizen—has proved to be wrong....

## BEYOND FREEDOM

In Germany, the 1968 generation was dominated by the question: “Freedom from what?” The answer was freedom from National Socialism, from historical continuity, from all traditions that could not be justified. Despite the occasional excess, 1968 was a very cerebral era. Is it any wonder that the 1968 generation, 20 years on, often could not understand, let alone answer, the question “Freedom to do what?” Communitarianism attempts to answer this question....

In Germany in the 1980s, there was a debate which received too little attention from—and, indeed, was sometimes deliberately ignored by—us politicians. Jürgen Habermas and others pointed out that capitalism was eroding away the moral foundations that are essential if society is to survive and flourish in the future. His approach is very similar to that of the communitarians. Our society prospers, too, because there are hundreds and thousands of people who are prepared to do volunteer work in an honorary capacity, and because there are women who are willing to embark on the joy—and the pain—of motherhood.

It is no coincidence that we always imagine *homo economicus* to be a man. By contrast, the family or the community provides a context in which the patterns of behavior that make the individual a moral subject are learned and absorbed. It is here that the individual learns to do things for others, to listen to and respect other people’s points of view. It is here that they learn to think beyond the limited

focus of their own lives and develop a new relationship to nature and to solidarity between the generations. Of course, there is nothing to stop people from thinking and acting responsibly outside the context of the family or the community, but they are not encouraged to do so in the same way. As a result, communitarianism considers it one of its most important tasks to bring about the revival of the family and community. A competitive society needs an affective base if it is not to be ruled by the “law” of the jungle. It is this affective base that is now in jeopardy....

Communitarianism seeks to shift the focus of society by starting from within the community. Whereas social democrats prefer to begin by reforming society's institutions, the communitarians start with the citizens themselves....

#### RETHINKING WELFARE

Only from a position of everyday security do people feel capable of coping with new burdens; otherwise, they seek refuge in their vested rights which, however, are unsustainable in the long term. Only if people feel secure in their everyday lives will it be possible to achieve structural change on the basis of consensus....

We must also face significant demographic developments. We Social Democrats have been forced to acknowledge that the organization of social security develops a momentum of its own. The state-run pension insurance scheme has doubtlessly had an effect on the number of children being born but also on the number of divorces. In our system, children are not capital; rather, they cost capital. The intergenerational contract in its current form, whereby the present generation pays for current pensions and at the same time commits the next generation to pay for its pension without undertaking the task of bringing up children, cannot remain as it stands. Child-rearing must find greater expression in pension law. It is up to people themselves whether or not they wish to have children. The state has no right to interfere. But it can and should provide more assistance to people who do decide to have children. Having children is a private matter—but with public repercussions, as the communitarians rightly point out.

As I have already said, Social Democrats must learn that the provision of social welfare develops a momentum of its own. This applies not only to behavior and changes in values but also to interests. At issue are the interests of the people receiving assistance. The present government suspects these people of permanent abuse of benefits. But also at issue are the interests of those providing this assistance who, in doing so, secure their own jobs and their own income. They have every right to do so, and it is understandable from a human point of view. But they represent a particularist interest. Therefore, so long as the state is responsible for organizing this process, it must make sure that it is efficient and economical. The belief occasionally espoused in social democratic circles that morality and efficiency are like fire and water is mistaken. I think putting an end to the wasting of public money is highly moral because such waste always occurs at the expense of third parties who, as a rule, are unable to do anything about it. It is not only capitalism but also the way we organize the system of social security, and the way the state organizes itself, which occasionally erode the values which our society urgently needs. We Social Democrats have paid too little attention to this....

One can impede the development of society in two ways: by constantly asking too much of people, or by constantly asking too little of them. Conservative governments tend towards the former, while Social Democratic governments appear to have an innate tendency towards the latter. The British government under Margaret Thatcher took “Necessity is the mother of invention” as its maxim for political action. It is no doubt true that a certain number of people found their own way back into society. But others were marginalized, disappeared into the criminal world, suffered deprivation, or neglected their children. This is not the path we Social Democrats want to tread. We want to reorganize the systems of social security.

We Social Democrats created an overly regulated, overly bureaucratic, and overly professionalized welfare state. We believed, for example, that if the state bore the responsibility for the outcome of a process it must regulate this process itself. This was a conceptual error. The warmth and sincerity of human relations cannot be bought. We did not believe in people’s capacity for spontaneously helping and caring for others in their neighborhood; we did not dare

to hope that parents of schoolchildren would take care of the upkeep of classrooms; we did not believe that we could leave the running of a kindergarten to the parents, nor that we could involve them more closely in any way. We thought that, by paying, parents had done what was expected of them. We were wrong. The specialist for human relations is the individual human being; only in special cases is it the psychologist. To a certain extent, we succumbed to a blind faith in science and experts.

I am in favor of applying the principle of subsidiarity not only to the state, with smaller units taking precedence over larger ones, but also to society. Wherever the community is in a position to solve a given problem, it must take the lead. Wherever it needs state assistance, this must be provided. The state should watch over processes rather than encumber them with red tape. This is less a withdrawal of the state than a change in its role. It can give back to the welfare state the moral dimension that many people feel it lacks today. What is at issue, therefore, is helping people to help themselves. Those able to help themselves have a greater feeling of their own worth. They are also better able to help others. The nestor of Catholic social teaching, Oswald von Nell-Breuning, once said that the most socially oriented state was the one that demanded the least morality from the individual citizen. This may be a wise insight but it points in the wrong direction. If morality is no longer required, it is in danger of atrophying. Nell-Breuning's wise insight reflects not only his profound knowledge but also a certain disappointment and resignation....

#### LOCAL AND GLOBAL TRENDS

I have already spoken of the changing role of the state, and of the principle of subsidiarity in its broadest sense; of raising the status and broadening the scope of honorary office; of the spontaneity of community action which is being suppressed by excessive professionalization and bureaucratization; of the state's tasks in accompanying processes rather than dominating them; and of other kinds of work outside the bureaucracy and the primary labor market. These ideas evidently go against the grain of developments in recent years. The state has assumed an ever-increasing number of tasks, thus

rendering itself virtually indispensable. Faced with empty public coffers, local authorities and communities have begun to steer a new course. Communities such as Christchurch in New Zealand are demonstrating how, with less money, local government action can be tailored to the real needs and requirements of citizens. Motivation among local government staff has increased considerably because they have been involved in this process of reorganization. So, too, incidentally has motivation among the local citizens. This is an example of consensus mobilizing energies and resources. The best prospects for renewal lie in the social organization of the work process. We have often failed to see this because for us progress has been identical with technological progress.

In Germany, too, we are witnessing a fundamental change in labor relations in both the private and public sectors. Many companies are reaching agreement with their workforces on the introduction of so-called annual working-time accounts which can be managed flexibly in agreement between management, employees, and the works council. This allows overtime to be reduced without creating a substantial number of new jobs....

Pressure to pursue structural change is not only the consequence of globalization. It is inherent in our civilization, based as it is on science and technology. Scientific and technological progress was born in Europe, and from here conquered the entire world. It made possible new products and new manufacturing processes. In less than two hundred years it changed the world more radically than the forces of nature and the activities of man in the previous one million years. The market economy was intended to prevent the wasting of human energy and the wasting of time. In economic terms, this is called increasing productivity. Another argument used to justify the market economy was that it allowed choice between producing more goods in the same amount of time and producing the same number of goods with less labor. Restoring this freedom of choice is and will remain an aspiration of social democrats. Essentially, it marks the distinction between the Left's concept of society and that of the Right. I cannot and will not accept that we must remain enslaved by the requirements of the system we ourselves created.

Ultimately, an economic system that needs a high rate of growth to survive is unsustainable. Making shorter working hours a taboo

for the foreseeable future goes against the trend we have observed hitherto this century. A modern concept of shorter working hours must differentiate between different types of jobs and professions. It must signal a new approach to reducing working hours. The crisis in the system of social security cannot at any rate be overcome by seeking to preserve jobs whatever the price. This would place a burden on the next generation and on nature. The social democratic economists of the 19th century already knew that in a technically advanced capitalist system there would inevitably be a decline in gainful employment. If we are to reorganize work we must also restructure the systems of social security, slowly but surely. There is not a crisis of social security in Germany but a crisis of political thought.

As work in its conventional form—the only thing of which we are capable, said Hannah Arendt—begins to play a less dominant role, will we lose the meaning of life? Will we no longer know how to use our freedom? Will freedom be no more than the choice between perhaps hundreds of television channels? I think this is anything but a foregone conclusion.

But this is also where we can learn from the communitarians. For them, it is not only gainful employment that gives meaning to life. They know that free time requires commitment and the pursuit of socially useful activities.

I believe that we are working on the same project: freedom, solidarity, and individual responsibility. Beginning at different ends, we will meet in the middle.

## A High-Rise Village

MICHAEL D'ANTONIO

At a time when many communities seem to be drowning in apathy and many public apartment projects are disintegrating amidst crime and decay, Morningside Gardens—part of a Harlem neighborhood—defies the accepted wisdom about government involvement in housing. As any community meeting at Morningside Gardens would illustrate, the residents identify strongly with their community. They know their neighbors. They participate in making great and small decisions alike. They take pride in the six tall brick buildings and rolling gardens that occupy the city block in Harlem bounded by Amsterdam Avenue, Broadway, and LaSalle and 123rd Streets. Crime is virtually nonexistent here. Social clubs and committee meetings fill the calendar. A careful examination of life at Morningside Gardens shows that this small community thrives in large measure because its citizens have held to the ideals and policies of the project's founders who, 40 years ago, sought to create a stable, middle-class housing project in one of the city's poorest areas.

These values are reflected in the price controls that have kept apartments at the Gardens affordable for the middle class. Under the rules of the government program used to finance the development, apartment owners were barred from reaping a substantial profit on their investments. In exchange, the apartment complex received tax abatements and subsidized mortgage financing. (Recently, these tax abatements were terminated—see below.) Under this system, prices were kept artificially low even through boom periods in the New York real estate market. As a result, apartments at the Gardens have been among the least expensive in New York City. In 1993 the shares for a two-bedroom co-op cost about \$45,000 and monthly charges were

about \$600. Both the share price and the monthly charges were far below market rates. The program that funded the Morningside development was intended to create stable, affordable housing that would not be affected by real estate speculation or inflation. In the case of Morningside Gardens, it worked. With a traditional apartment turnover rate below 5 percent a year, the Gardens has been a paragon of stability.

Morningside Gardens is an attractive place. People want to live here because it is safe, racially mixed, and vibrant. (The project's management office estimates that about 40 percent of the residents are white, 30 percent are African-American, and the rest are from other racial groups.) Residents produce plays, attend art workshops, and participate in a variety of social activities. Notices tacked to the bulletin board in the manager's office advertise classes in yoga, quilting, and African dance. An on-site senior citizens center bustles with activities. Children are served by a day care center/nursery school, and teens can participate in cultural activities and clubs.

The activities, the well-kept grounds, and the moderate prices all make the Gardens appealing. Some applicants wait for years to move in, and then celebrate the contract signing. It may be difficult for many Americans to imagine a tenant celebrating public housing. In the past 20 years political critics have described government housing programs as uniformly disastrous. In the public mind, urban housing projects have become associated with drug dealers, welfare cheaters, and gangs. These stereotypes have often been based in reality. In many cities public housing projects built in the 1960s and 1970s have decayed into rundown, violence-plagued war zones.

Experts who have studied these tragic communities blame a series of factors. As John Atlas and Peter Drier point out in "From Projects to Communities: How to Restore Public Housing," tenant selection policies have tended to create concentrations of poor families in high-rise, urban public housing. Second, Atlas and Drier note, inadequate public safety efforts open a door to crime, making many of these projects nearly "unlivable." They also blame the stigmatizing ugliness of many high-rise projects for creating a dispiriting environment.

Morningside Gardens offers hope to those who would break the cycle of decay that afflicts public housing. Here, a collection of build-

ings has become a true community. The residents say their success is due, in part, to the special mix of people—mostly middle and lower-middle income—who live in the Gardens. But in dozens of interviews, residents said they believe that the policies followed in their community—cooperative ownership of the apartments, a strict resident selection process, grassroots decision making, a strong public safety program—could foster healthy public housing communities elsewhere.

The key to understanding the Gardens' success is knowing that it did not happen by accident. From its inception, this particular housing project has been a deliberate social experiment. Like steadfast parents who are determined to turn their children into good citizens, the founders of Morningside Gardens promoted a specific set of values that are evident in the sense of responsibility residents bring to even minor matters. From the beginning, these values made Morningside Gardens different, and they have helped nurture the community's success.

#### A HOPEFUL BEGINNING

“We weren't all like pilgrims, with pre-set values. We came for different reasons. Some for the diversity. Others because it was so affordable. But after you got here you looked around and said, ‘Hey, this looks like a really interesting place.’”

—Beatrice Gottlieb, 68, 1994 interview

The people who moved in just as Morningside Gardens was completed recall vividly the muddy grounds, elevators crammed with household effects, and the unusual experience—especially considering that the year was 1957—of meeting neighbors of all different races, religious backgrounds, and national origins. Many, if not most, had arrived knowing that Morningside was to be an experiment in diversity, but others had simply been attracted to the spacious new apartments and the low prices. (The apartments were designed to be airy and well-lit, and many came with balconies that overlooked the Hudson River to the west.)

The community benefited from the number of talented and highly educated professors and staff members who worked at nearby Columbia University and made the Gardens their home. Encouraged by an active recruitment campaign, these professionals brought a

worldliness and even intellectual excitement to the community. They helped found the workshops for artists, potters, actors, and photographers that operate to this day. Besides then-rising civil rights lawyer Thurgood Marshall, the notables who lived at Morningside in the early years included bestselling novelist Robert Crichton and Julliard String Quartet founder Robert Mann.

“These people all had good, solid values that went beyond self-interest. Some of it may have been because some were affiliated with the religious institutions in the area,” explains George Bundy Smith, an African-American Gardens resident and a New York State judge. “I had grown up in the segregated South. I had heard that Morningside was a place where I would have no trouble, racially, getting in. It was true. These were people who were easy to get along with. The white people there supported black aspirations.”

Though the early tenants got along, the community was not without some conflict. Residents argued about noisy elevators, hall lighting, and where children could, or could not, play outside. (A group of mothers who campaigned for play areas were opposed by residents who considered them overzealous. A compromise established play areas and quiet, “no-playing” sections of the property.)

At many points in their community’s short history, the people of Morningside Gardens have seized the initiative, creating their own solutions to the community’s problems, rather than relying on the professional managers hired to run the buildings or on the board of directors. They founded a co-op supermarket, a credit union, and a workshop for volunteers to use while building community projects such as park benches and playgrounds. A Garden Committee was established to oversee the lushly landscaped property. Early on, tenants decided to invest heavily in the gardens, hoping that the natural beauty would be a positive influence on their community. It has been. On any spring day, hundreds of area residents stroll through the gardens, appreciating dozens of species of trees and flowers. The money invested in landscaping—the bill for labor and supplies now tops \$100,000 a year—has provided the complex with beauty and tranquility, two assets that are rare in any urban environment and virtually nonexistent at high-rise public housing projects.

Of course, incorporating the young into the life of the community has been a major concern of Morningside Gardens. Over the years, children have been instilled with a sense of community through various programs and activities. An on-site nursery school provides day care and early education. Recreation programs and after-school tutoring have helped older kids. Teens have also been involved in special maintenance and cleanup projects, and received public praise. All of this seems to extend the sense of ownership and community to the younger generation.

## COMMUNITY SELF-GOVERNANCE

Although the clubs and committees contribute to the quality of life in the project, the most important institution created by the residents is the Morningside Gardens Tenant Co-operators Committee (MGTCC), which brought small-scale democracy to the project. The MGTCC provided a forum for problems to be discussed and a mechanism for bringing them to the board of directors and the project's managers.

The committee, which still functions today, was designed to give residents easy access to power. Under the committee's rules, each floor of each building elects a representative. The floor reps hold regular meetings—sometimes weekly—where residents talk about problems or present ways to improve life in the community. The building floor reps also select three of their number to be delegates to the MGTCC. These delegates make up the committee that brings problems and suggestions to the officials who actually run the project day-to-day.

The second naturally occurring institution that proved vital to the success of the Morningside Gardens community was a newsletter called the *Morningside News*. Founded in the first few months of Morningside Gardens' existence, it has been published irregularly ever since. Residents invariably mention the newsletter as one of the keys to making the housing project something more than an address. The *News* has recorded the life of the community, writing its history, recording births and deaths, creating shared stories, and binding people together.

Because it has always operated independently of the board of directors, the *News* has been a community paper, not a mouthpiece

for administrators or members of the board. Many of its columns have been taken up with helpful advice for the residents. Articles range from “How to Hang Wallpaper” to tips on “Turtle Tending.” But in between the homey bits and pieces, the *News* has also been the forum for lively community debates on controversies ranging from co-op finances to squirrels.

## LAW AND ORDER IN THE GARDENS

Public safety and good citizenship have been high priorities since the Gardens opened. Early in the community’s life committees drafted rules of behavior—for children, teens, and neighbors—which were approved by the board, published, and given to all tenants. From time to time the rules have been updated and amended. With the rules clearly stated, residents have a framework for peaceful coexistence. They know how long they are allowed to sublet apartments (15 months) and whether they are allowed to shake a dust mop on their balconies (they are not).

Mindful of the relatively high crime rate in Harlem, Morningside Gardens maintains its own security force. Even though violent crime has increased in the streets surrounding the Gardens, the security officers who serve the complex have been able to limit crime in the Gardens enough that residents say they feel safe. Officers are posted in plexiglass-walled stations. They also patrol buildings and grounds. They offer advice on staying safe at home and on the street. They escort residents to and from subway stations. And they aid outsiders who are on the grounds, or who come to them from the neighborhood seeking assistance. “We do not want to become an island apart and could not, in any case,” states the 1971 Morningside Gardens Handbook for residents. “Our greatest security is to be found in the respect and goodwill of our neighbors.”

The residents of Morningside Community have always been willing to pay the cost of security through their monthly service fees. In November 1962, the *News* published a front-page article reminding residents that even though the project spent \$40,000 a year on security officers, “we must be ever alert.” Over the years the security budget has risen substantially. Full-time patrolling officers cover the complex 24 hours a day, 365 days a year. Improvements such as a

door-buzzer system and security video cameras for the building lobbies have been added. These security devices and the staff of private guards have provided peace of mind to a resident population that has aged along with the project.

“People who live here know they are safe because of the security staff,” explains Clara Shapiro, an 80-year-old original Morningside Gardens settler who feels so confident in the security staff that she will venture out alone even though her age and slowed step would otherwise make her feel vulnerable. “In the 1950s, and early 60s, Harlem itself wasn’t scary,” she recalls. “There were restaurants and shops we went to all the time. But that started to change.” In 1968, Ms. Shapiro had her bag snatched as she walked on a nearby street. The incident itself was bothersome. But she was more disturbed that none of the people who were standing nearby moved to help her. As a white woman, she knew that the ease she once felt in the mainly African-American community was gone. Racial tensions had increased so far that she, as a white woman, could not depend on bystanders for help. “Something was changing in that environment,” she recalls. “You just knew it.”

This change did not affect Morningside Gardens. Through the turbulent 1960s, blacks, Jews, Asians, Hispanics, and others continued to live together inside the Gardens. “There was nothing like the ‘white flight’ that other parts of the city experienced, with white people leaving for the suburbs,” adds Ms. Shapiro. “People were committed to living here. They liked the urban life-style. They felt safe. This was their home. There was no reason to flee.”

By the early 1970s, some of the children of the first group of settlers were filing applications to get their own apartments. Their ties to the community were so strong that they wanted to stay. Today it is not uncommon to find two, and even three generations of a single family living in Morningside Gardens. These families enjoy the support of relatives and friends who are near enough to help with children or run errands for the elders.

## FACING THE FUTURE

The homegrown institutions that developed in the Gardens’ early years—the MGTCC and the *News*—have provided forums for iden-

tifying and then adapting to the kinds of changes that confront any community. In recent years the people of this project have also relied on a third institution, Morningside Retirement and Health Services (MRHS), to deal with their most significant challenge: a rapidly aging population. Because apartment turnover is very low, the population of the Gardens has grown older with the project. The number of residents over 62 reached a high of 70 percent in 1993. (This makes the Gardens what the government calls a NORC, or naturally occurring retirement community.) As they struggle to remain active and live independently, these aging Gardens residents require new and different kinds of support.

MRHS helps older residents continue to live at home. The center arranges for home-care services for the sick, provides counseling on insurance, financial and legal matters, and even helps with shopping for those who have trouble getting around. MRHS is also a social center for the aging residents of the Gardens. It offers holiday parties, weekly get-togethers and such diverse activities as music therapy, knitting circles, weekend movies, and forums run by the Feminist Issues Group.

Most importantly, MRHS gives residents—especially older retirees—an opportunity to remain active by serving their own community. While Morningside Gardens does provide free space, MRHS depends on donations from residents and government grants to fund its annual budget. Almost all of the services are provided by the residents themselves, and mostly it is older people serving their peers.

But even as the original members of the community banded together to maintain their way of life, they worried about the future of Morningside Gardens. Younger residents were gradually beginning to take on responsibilities, serving on boards and committees. But with a continued low turnover rate, the overall population of the community continued to age. Then, in late 1993, the city allowed the tax abatement to expire. In response, residents chose to reorganize. As the law allowed, they voted to become a private corporation. As a result, the price for co-op shares, while technically still controlled, was allowed to float to market value. This meant that shares for a three-bedroom apartment that cost about \$45,000 in late 1993 essentially tripled in the next two years.

The effects of this change are not clear yet. While it places the apartments farther out of reach of lower middle-class families, Morningside Gardens still remains one of the cheaper apartment complexes in Manhattan. And the increased turnover has provided the community with younger residents who are reviving the spirit that invigorated it for decades.

#### COMMUNITY CAN BE CREATED

The Gardens project has had a positive impact on the larger Harlem community, according to Terry Williams, a longtime Harlem resident and author of several books about the Harlem community, including *The Uptown Kids: Hope and Struggles in the Projects*. Williams notes that Morningside Gardens' neighbors enjoy walking amidst the flowers and trees. They have benefited from the commercial establishments that are part of the project, and even participate in some of the social activities. But, most importantly, the Gardens has stood as an example of security, stability, and achievement.

"The place provides a psychological lift for an area that needs it," adds Williams. He says that racial tensions are low, and older residents of the Gardens are safe walking the streets because the community has won the respect of Harlem. "The people there—including whites—are accepted because they are staying put, making a commitment. The guards, the manicured grounds—all of that is very attractive and respected."

In the decades since the first tenants moved in, Morningside Gardens has helped stop the physical decline of the community closest to Columbia University and the other institutions. It has also offered a step up the social ladder for area residents. "Moving into a co-op like that is considered a move up," concludes Williams. "It is a place that middle-class people want to get into."

At the MRHS center, 15 Morningside Gardens residents recently spent a couple of hours talking about their community. They agreed with Tomoe Asai, a Japanese-American resident who said that she will not move away—although she is 76 and relatives would love to have her in Hawaii—because the Gardens has become her village. "I do not go to Hawaii not because I want to stay in New York City,"

she said, “but because I want to stay here, with the people at Morningside Gardens.”

“I came here in 1970, and one of the things that I noticed immediately is that this is really a small village where people know one another, care about one another,” said another resident, 75-year-old John Beard. “The opportunity to participate here has meant a great deal to me. I have served on the board of the co-op supermarket and participated in chorus, the players, the camera club. I’ve met so many people that it takes me half an hour to walk across the grounds because so many want to stop and talk.”

The emotions revealed by tenants such as John Beard and Tomoe Asai illustrate the power of community. Because they share ownership and responsibility for their home village, these residents of Morningside Gardens have an attachment to the mortar and brick, the rolling gardens and, most of all, their neighbors. “Living this way is considered, by some, to be a thing of the past,” notes another old-timer, Beatrice Gottlieb. “But just because it’s old, that doesn’t mean it’s a bad idea.”

#### A Bad Situation Made Worse

*Good Samaritan Regional Medical Center in Phoenix has stopped offering free x-ray screenings of Halloween candy for fear of liability if the hospital failed to detect something. Technician Jane Dickerson commented, “The hospital doesn’t want to take responsibility in case we miss something.”*

## The Amoral Center

William Julius Wilson, *When Work Disappears: The World of the New Urban Poor*

New York: Alfred A. Knopf, 1996, 352 pp.

Reviewed by Nathan Glazer

William Julius Wilson has been engaged in hard-headed and sober analysis of the problems of black poverty in inner cities for two decades or more and has made as his own contribution a middle-of-the-road analysis of this difficult problem. I call it "middle-of-the road" even though it is not middle-of-the-road politically (that location is now held firmly by President Clinton). I use that description because there are analyses to his left and to his right that he disputes. To his left the chief alternative to his approach is the insistence that racism, discrimination, and prejudice continue to define the basic ground that explains black poverty. Black workers meet discrimination by employers, today as in the past, and nothing much more is needed to understand the situation of inner-city blacks. To his right the chief alternative to his analysis is the insistence that misguided social policy, in particular welfare policy, explains black poverty, and nothing much more than that is necessary to understand the problem. As we know, the analysis to the left carries no political weight today; the analysis to the right is in the saddle.

Wilson does not deny the existence of racism, prejudice, and discrimination. And he would probably agree with his critics to the right that there are some ill-effects from some of the programs designed to help the poor. But he insists that the chief problem is the disappearance of work from the inner city. Manufacturing jobs in mass-production industries such as steel, auto, and related subsidiary industries once sustained black workers who had limited edu-

cation and lacked advanced skills. The decent wages these jobs provided made it possible for the workers to sustain their families. These jobs no longer exist. This thesis, which Wilson developed before in *The Truly Disadvantaged*, is the nub of the matter, and much else that has become associated with black poverty follows: the decline of marriage, the rise of illegitimacy, the increase in crime and drug use, and the disappearance of small retail businesses.

Thus, as opposed to his critics on the left, he does not see prejudice and discrimination as primary. He accepts the evidence—from public opinion polls and from the presence of substantial legal restrictions on discrimination since the civil rights revolution of the 1960s—that prejudice and discrimination have declined and are reined in. One cannot explain a rising trend—the increase in poverty and associated problems—by an explanatory factor that should be associated positively with it, but instead is falling.

Nor is he persuaded that the alternative on the right has the degree of explanatory power that the majority in Congress now finds so convincing. Charles Murray and Lawrence Mead are in his enormous bibliography, but Wilson does not agree with their claim that the problem lies with the debilitating effects of welfare in undermining the willingness to work and maintain families. The values of unemployed black men, and of the large numbers who no longer seek employment, are not different from mainstream values. The problem is the inability of black men to realize them because of the disappearance of work from the inner city, as mass-production industries decline or move to the South, to rural locations, or overseas. The jobs in the rising sectors of the economy demand skills and qualities that many of these black men—living in poverty-stricken areas afflicted by high rates of crime and drug use and having poor schools that do not provide a suitable education—do not have. Or the jobs provide wages, as in the service sector, that will simply not support a family, or indeed an individual.

Most informed analysts find the Wilson approach persuasive. The critics to his left are generally not to be found in elite universities or writing columns in major newspapers, and the critics to his right also do not hold major positions in the world of the social sciences and social policy, though they are prominent among opinion-molders. So why do we not simply cheer Wilson on and enroll in the

effort to institute the program he outlines in this book? The program he proposes is clear. A good deal of it was already presented in *The Truly Disadvantaged*, and the reprise here is expanded with more detail. Wilson argues that policies must be seen to address more than the urban black poor. There are other poor people, other workers who have seen their positions eroded, and policies must address this large segment of the population whose economic position has declined, not urban blacks alone. Education must be more effective so as to properly prepare graduates for work. There should be universal preschool education and child care. We need a better system linking school to work so our young people do not flounder around for years before finding stable jobs, or giving up. Cities and suburbs must be linked so the latter can contribute to ameliorating the problems of the former. We need to establish a nationwide system of health insurance, whose absence currently makes a low-paying job such a poor alternative to welfare. We need to shore up rather than reduce the Earned Income Tax Credit to make these jobs more attractive. And since there are simply not enough jobs in the inner city, the government must provide more jobs of last resort, paying the minimum wage or below, through an expanded WPA or a program to repair our decaying infrastructure or by some other means.

#### A MISSING MORALITY?

These proposals are all straightforward and decent. So why are they incapable of arousing enthusiasm and commitment? It would be easy to score points against many of the details of the program. Just how, for example, would a program of government jobs of last resort operate in a world of municipal trade unions? Would minimum wage jobs attract anyone without the stick of very harsh restrictions on other aid? And so on. There is also the prevailing skepticism about big government and big expense. But I think these reasons do not come to grips with the major point that tempers enthusiasm for the Wilson program.

Unwillingness to expand social policy as Wilson proposes is often attributed to the fact that it would cost a great deal, and Americans do not want to pay more taxes. Others say Americans are just selfish; but to ground an explanation in a characteristic of moral character is unpersuasive to the social-science minded. Wilson also es-

chews explaining things by the values of people, whether of the American people generally or of the inhabitants of the poor ghettos. Whatever the explanation, Americans are simply not persuaded (though I am) that Europe has it better—with its solid welfare states (scarcely much affected by some recent modest downsizing), its child-care programs, its national standards for schools, its national health insurance schemes, and its solid floor of benefits under all jobs and under all who are jobless. Yet this is what Wilson is aiming for. But American policymakers simply will not trade our present situation, with low rates of joblessness (even though so many of the jobs are poor), for a situation in which jobs are well-provided with state-required benefits, with the result being that there are fewer of them. Of course, most of the public have only vague knowledge of the details of how Europe provides such well-butressed jobs and can manage to sustain the jobless in what by American standards is luxury. I doubt, however, that increased knowledge of Europe would lead us to abandon our ways.

Why America is reluctant to follow in the path of Western Europe is, I believe, best explained by another aspect of Wilson's book, indeed the most striking aspect of it. What we have not seen before is the detailed description of what can only be called the degraded culture of the ghetto. It is not a description that will lead people to enthusiastic support of his program. This is not because there are no good rational connections between the conditions he describes and the program he proposes to combat them. It is rather that the distaste created by the description of the conditions does not engage the less rational elements of will and commitment that would lead one to support the program with enthusiasm. Of course the culture of the ghetto is already familiar to the American public from TV specials, movies, newspapers, and journalistic accounts in books. But we have not seen it presented quite this way in mainstream social science before.

Much of the book consists of direct quotations from residents, employers, and neighbors, gathered by his extensive and well-funded research. These quotes present what can only be called a very unattractive picture, even if we—and I include blacks as well as whites in this “we”—understand the forces that have created it. The employers believe black men of the urban ghettos are, in Wilson's summary, “uneducated, unstable, uncooperative, and dishonest.” Wil-

son does not disagree, though he understands how this has come about. (Of course the employers must deal with the situation as they find it.) Nor does Wilson present these views as a consequence of unreasoning and unsupported prejudice. It is prejudice, of course, but based on experience. “The statements made by the African-American employers concerning the qualifications of inner-city black workers do not differ significantly from those of the white employers.” Employers will hire in preference the alternatives available to them—ethnic workers from the white areas and immigrants. So there are jobs, but they are not given to inner-city poor black men. These men know how they are viewed, and many do not even try to get the jobs that are available.

Of course we—the same “we” as above—understand how this has happened. There is indeed the heritage of an almost universal and unbroken prejudice and discrimination that consigned blacks to the poorest jobs. There is the reality that when these barriers were broken, blacks expected better. But the good jobs were disappearing and blacks had few qualifications for the better ones to which they felt, after centuries of mistreatment, they were entitled. Thus the poor jobs were taken by immigrants whose expectations and hopes were such that they were willing to accept circumstances that blacks would not. It is one of the ironies of history that the same middle-1960s which saw the erection of the major legal barriers against discrimination also saw the breaking of the major barriers to mass immigration. Chicago, which is the site of Wilson’s most important work, had one big minority in the 1960s: blacks. Latinos and Asians are now almost as numerous in the city as blacks. And they do better.

The contrast between the black and the new immigrant (or old ethnic) communities is particularly devastating when one considers the links that bind individuals to families and families to each other, and the qualities that make communities strong. A number of times Wilson, referring to the famous jobs mismatch—the new jobs are in the suburbs, but the low-skilled and job-needy workers are in the city—describes how Latino workers carpool so that they can get to suburban jobs. He notes that blacks generally do not organize similar car pools. But Wilson does not really analyze this difference—or the difference between the unstable black families and the more stable Latino families. He simply asserts that inner-city blacks, “unlike Mexicans, do not have a network system that supports organized

car pools.” Accordingly, we have another necessary program: “Until public transit systems are improved in metropolitan areas, the creation of privately subsidized car-pool and van-pool networks to carry inner-city residents to the areas of employment...would be a relatively inexpensive way to increase job opportunities.” Quite sensible. But one wonders who will provide the subsidy, how long it will take before the public is asked to do so, and how the program will fare in the face of the skeptics’ question, “Why do we subsidize car pools when it seems they work perfectly well, unsubsidized, for some people?”

I come back to the coolness that we can expect as a general response to the decent programs Wilson proposes. Some of it derives from skepticism as to costs and effectiveness. But more important than that, I believe, is that the intended recipients are seen as morally unworthy. From one Christian point of view, that should not matter. But that point of view is not dominant. We believe—and Wilson’s subjects believe this too, so it is a general “we”—that people should make it on their own. Even those most overwhelmed by difficulties, such as homeless mothers in New York City’s shelters, respond favorably, according to a newspaper article, to Mayor Rudolph Giuliani’s insistence that every aid recipient should work. Thus “we” see the Mexican carpoolers as morally praiseworthy.

The sociologist may explain the difference between the community that binds Mexican workers together and the one in which people are deprived of supportive community ties. The sociologist may explain how this difference came about, and in doing so refuse to adopt the language or the stance of moral blame or praise. We, however, cannot suppress our sense that moral valuation is necessary and human. And so we will find the behavior of the Mexican worker morally praiseworthy, and will feel quite different about the nonworking inner-city resident, possibly engaged in some self-destructive and community-destructive behavior. The social scientist knows how it came about, and he will carefully remove any trace of blame or praise from his analysis. And he will design the program that offers the best promise of changing the situation, with the hope that it will change the people trapped in it. I will vote for it, but it will not work once one leaves the precincts of social science and enters the world of politics, because the moral element—the factors that make for judgements of worthiness or unworthiness—has not been given its proper weight.

# Especially Noted

JEREMY G. MALLORY

George F. Simons et al., eds., *Cultural Diversity Fieldbook: Fresh Visions and Breakthrough Strategies for Revitalizing the Workplace* (Princeton, N.J.: Pacesetter, 1996). 271 pp.

The editors of this book have assembled opinions from a plethora of sources to speak on the subject of cultural diversity. In addition to the usual voices from the left and right, authors who have found a middle road have their say, as well as people who are not easily marked on the ideological spectrum. News articles, op-ed pieces, personal interviews, political cartoons, first-person accounts, fiction, poetry, role-playing scripts, and hands-on exercises all serve to document the many sides to this complex issue. In addition to the dynamics of race, gender, and ethnicity, the authors draw attention to the sometimes neglected cleavages of class and religion.

Emma Rothschild, "The Debate on Economic and Social Security in the Late Eighteenth Century: Lessons of a Road Not Taken," *Development and Change* 27 (1996). pp.331-51.

Rothschild pinpoints a dilemma of 18th century economics which is of great importance today: In the long run, do social programs help or hurt the economy? She demonstrates how Enlightenment authors, namely Turgot, Condorcet, and Malthus, built upon the arguments Adam Smith advanced in *Wealth of Nations*, and reached divergent conclusions. Malthus's approach, she argues, has become the more prevalent version of Smith, advocating a free market with little to no social safety net. Turgot and Condorcet, however, are often overlooked. They argued that a strong economy presumes that the disadvantaged will be taken care of by an enlightened state that provides income assistance. Without security and basic education brought about through a basic income, they saw free market reform as a nearly impossible task.

Richard M. Coughlin, "Whose Morality? Which Community? What Interests? Socio-Economic and Communitarian Perspectives," *Journal of Socio-Economics* 25, no. 2 (1996). pp.135-55.

This article illustrates the key similarities and differences between socio-economics and communitarianism. Though they share many principles, they differ in how they treat individualism, morality, and community. Communitarianism sees excessive individualism as a normative issue, while socio-economics critiques individualism's descriptive assumptions. Socio-economics uses morality in a descriptive fashion—understanding economic phenomena that are otherwise inexplicable—while communitarianism uses it in a prescriptive fashion, usually to pinpoint some action that ought to be taken. Where community is concerned, socio-economics examines concepts such as the family and schools insofar as they affect the economic realm, whereas those form the moral infrastructure for communitarians.

Steven Brint, *In an Age of Experts: The Changing Role of Professionals in Politics and Public Life* (Princeton, N.J.: Princeton University Press, 1994). 278 pp.

Brint takes as his subject a class of people who have been very difficult to categorize up until now, but who are, he argues, becoming increasingly important to America's future: the professional class. He documents shifts within the professional class—from general authorities to experts in increasingly narrowly-defined areas of knowledge; and also of the professional class as a whole—from closely allied with business to widely divergent. He concludes that the professional class as it is will not work as a vehicle for the revival of liberalism, but that aspects of professionalism's community-oriented past might.

DAVID E. CARNEY

## From the Libertarian Side

### A Right to Advertise Pot?

American Civil Liberties Union (ACLU) attorneys are investigating a possible violation of the First Amendment in Austin, Texas, reports the *Austin American-Statesman*. Ron Gjemre feels that KLRU, a local public television station, violated his right to free speech when it rejected his proposed donation and, therefore, kept his business's name from appearing on a donors list.

Gjemre, who believes in the legalization of hemp, telephoned KLRU and offered a donation of \$400 in exchange for which he asked that "Ronnie Reeferseed" be listed as his business during a break in the pledge drive. Bill Arhos, president and general manager of the station, was leery of the sort of business that Gjemre did and rejected the offer. Gjemre "didn't really specify what the business was. So we weren't really anxious to glorify a name like Reeferseed."

Though KLRU was not anxious, KNCT, another public television station, had no problems with the name and published it in a donors list. Gjemre points to this to assert his right to be on public television. What is acceptable for KNCT ought to be acceptable for KLRU.

Though the ACLU has not yet taken the case, Ann del Llano, president of the Central Texas chapter, says, "It definitely has some potential."

## Cutting More than Red Tape

In an effort to streamline the application process for bank mergers, the Federal Reserve Board has introduced new rules that, critics charge, disregard the needs of poor communities.

If adopted, the rules would halve the public comment period from 30 to 15 days. According to the *New York Times*, opponents fear that this change would undercut banks' responsibilities under the Federal Community Reinvestment Act of 1977 (CRA). The CRA requires banks to make loans to persons in low-income areas that the banks serve. The comment period of the application process has long been used by community groups to enforce the CRA, which does not contain much other enforcement. Community groups file protests during comment periods in an effort to make banks open new branches and make loans in areas that might not otherwise get service. Matthew Lee of Inner City Press, which files such comments, declares, "The only burden they are reducing is considering the comments of the public."

Supporters argue that the new rules will not limit public comment and that only the best CRA rated banks are approved for the new streamlined process. Only time will tell whether the new rules will take the bite out of the CRA.

## Anonymous No More

With the brouhaha over *Primary Colors* by Anonymous Joe Klein subsiding, a new dispute over anonymity is growing. A coalition supporting privacy on the Internet is using cyberspace to seek plaintiffs in a suit against the State of Georgia over new legislation outlawing false identities and the unauthorized use of legally protected materials. The coalition has posted requests for clients to various Internet sites.

A letter by State Representative Mitchell Kaye, an opponent of the legislation, is quoted in *The Atlanta Journal and Constitution*. "We are looking for more plaintiffs and would like possibly a Chinese dissident, gay Catholic, battered or abused wife, corporate whistleblowers,... or someone of that type who would need anonymity... for fear of retribution or reprisal if their name were to be disclosed." Opponents are afraid that the law could be read to prohibit "links" between Web sites and the use of screen nicknames.

Supporters of the law respond that the Internet can be a vehicle for criminal activity, that copyrighted materials ought to be protected in cyberspace, and that the law will not be interpreted as strictly as opponents believe it will be.

Expect to hear more about this case in the future.

## From the Authoritarian Side

### The Slammer for a Slammer

In June of this year, Michael Weidler was sentenced to six months in jail by Allegheny County (PA) Common Pleas Court Judge Donald Machen. The suburban Pittsburgh man's offense was criminal contempt for slamming the door of the judge's courtroom, according to the *Pennsylvania Law Weekly*.

Weidler was filing for divorce in a civil court and had asked the judge to waive the filing fees. Upon rejection of the request, Weidler became angry, may have sworn and mumbled, and stormed out of the courtroom slamming the door behind him. The slamming startled everyone in the courtroom. Judge Machen issued a criminal contempt citation. Weidler was arrested and tried. When he lost his case, his appointed attorney chose not to appeal. Weidler went to jail and had no representation for two months.

On August 5, Weidler came to court for a review hearing before Judge Machen to apologize for his previous behavior. He indicated that he was being counseled about his temper. Judge Machen indicated that he sensed contempt and disrespect in Weidler's remarks. The judge ordered the sentence to be completed in full. This time, Weidler's attorney appealed.

Weidler was freed in late August after a successful appeal by ACLU lawyers to the state superior court. *The Daily Record* reports that the court ruled that Judge Machen had overreacted.

## Clean Ivy?

On July 16, 1996, Princeton University reaffirmed its three-year-old policy of prohibiting faculty, staff, and students from using the University's computer network for "political purposes." The action comes, according to several reports in *The Record* of Bergen County, New Jersey, after an anonymous e-mail, encouraging recipients to vote for a Democratic candidate, was sent through the network.

The University maintains that any political usage of its network might jeopardize its not-for-profit status. Justin Harmon, a spokesman for Princeton, said, "We do not believe it to be an appropriate use of tax-exempt resources for members of the university community to distribute campaign material via e-mail." To enforce the policy, Princeton has threatened sanctions for violators. Princeton officials indicate that political material used for classes can appear on the network, just as if they were in the library.

Those opposing Princeton's position highlight the uniqueness of the ban and argue that individual use of university resources does not endanger a university's tax status. The ban could prohibit students from sending e-mail to Congress indicating support for or opposition to pending legislation. The ACLU offered Princeton a list of cases indicating the IRS position allowing individual use of resources. Ann Beeson of the ACLU explains, "It's the virtual equivalent of the campus bulletin board or passing out leaflets on the commons. It should be completely protected."

On August 22, 1996, Princeton admitted that its policy was overly broad, but did not repeal or modify the ban. It rejected the ACLU cases as possibly not representative and reasserted that "the IRS may deem individual use of university resources for campaign activities, including use of the Internet, to be political campaign activity by the university itself."

# From the Community at Large

## Let the Candidates Be Heard

Three major networks have developed plans to give free air time to presidential candidates during this fall's campaign.

ABC will invite the major candidates to participate in a one-hour special that will be run at prime time during the final week before the election. The Fox network will offer each major candidate at least ten minutes of prime time to discuss ten issues. Fox will also provide one hour of prime time on election eve, dividing it equally among the candidates. PBS will set aside a few minutes every day for the major candidates. The networks will determine who qualifies as a "major" candidate by using polling numbers, the decision of the Commission on Presidential Debates, and the number of state ballots on which a candidate appears.

In getting their plans approved by the Federal Communication Commission, ABC, Fox, and PBS are now exempt from rules that require equal access for all legally qualified candidates. This has raised the concern that minor party candidates will not receive the coverage that they otherwise would have.

## Dutiful Snitching

Previous cash-for-guns programs aimed at getting dangerous guns off the streets have met with limited success. Instead of getting guns out of the hands of criminals, persons were turning in broken guns or guns that had not been used since the last world war. The *Washington Post* reported that Worcester County, Maryland, was using a state grant to fund an innovative program to reduce the numbers of guns on the street. Local authorities are now giving money to people who call and report that another person is carrying a gun in public.

Modeled on a Charleston, South Carolina program, police give anonymous informants \$100 to turn in people carrying firearms. In Charleston, police have seized 59 guns over the previous two years. Fifteen of the weapons were confiscated on school grounds. Twenty-

seven arrests were also made. A police spokesman reports, "It works very well. It doesn't make any sense to pay someone for a gun that's been in an attic for 50 years and doesn't work." There have been no reports of problems caused by the program.

Back in Maryland, Stuart Comstock-Gay, executive director in Maryland of the ACLU, has his concerns. "It smells funny. I think the thing you have to be careful about is to make sure that people aren't just turning in their friends and other people they know to get the police to hassle them."

### I Just Called to Say...

In an age where criminals have extensive technology to assist them in their activities, neighborhood watches seem like a low-tech response. But now neighborhood watches are about to move into the information age thanks to a new, nationwide program sponsored by the Cellular Telecommunications Industry Association (CTIA). CTIA, according to the *New York Times*, will be offering 50,000 free cellular phones and air time to approved neighborhood watches.

Watches must be endorsed by local police in order to apply to the Community Policing Consortium and the U.S. Justice Department's community policing office for certification. Upon certification, CTIA is notified and contacts local cellular carriers. The local carriers provide phones that can only dial local authorities or other emergency numbers. Air time is also donated.

CTIA and its members are covering the entire cost of the program. Although there are currently 20,000 neighborhood watch programs, CTIA has indicated that it will keep supplying phones as more groups organize and are certified.

## THE COMMUNITY'S PULSE

### THE BURDEN OF PUBLIC RESPONSIBILITY<sup>1</sup>

With regard to the following goals, who do you think should have the primary responsibility?

	Govern- ment	Businesses	Community Leaders	Indivi- duals
Controlling illegal immigration	<b>90%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>
Providing income assistance	<b>57</b>	<b>3</b>	<b>20</b>	<b>10</b>
Improving education	<b>44</b>	<b>2</b>	<b>25</b>	<b>19</b>
Creating jobs	<b>43</b>	<b>35</b>	<b>9</b>	<b>5</b>
Reducing crime	<b>39</b>	<b>1</b>	<b>25</b>	<b>22</b>
Reducing pollution	<b>31</b>	<b>20</b>	<b>11</b>	<b>27</b>
Providing opportunities for minorities	<b>22</b>	<b>11</b>	<b>22</b>	<b>35</b>
Promoting culture	<b>15</b>	<b>11</b>	<b>44</b>	<b>19</b>
Improving moral values	<b>5</b>	<b>2</b>	<b>14</b>	<b>73</b>
Strengthening families	<b>4</b>	<b>1</b>	<b>11</b>	<b>81</b>

### TOLERANCE<sup>2</sup>

Should society accept or discourage homosexuality?

<b>Accept</b>	<b>46%</b>
<b>Discourage</b>	<b>49%</b>

Should dangerous books be banned from public schools?

<b>Yes</b>	<b>45%</b>
<b>No</b>	<b>52%</b>

### AGE vs. WEIGHT<sup>3</sup>

If you had to pick one, which would you rather choose—to be five years younger, or weigh 15 pounds less?

Males:

<b>Younger</b>	<b>63%</b>
<b>Weigh less</b>	<b>29%</b>

Females:

<b>Younger</b>	<b>41%</b>
<b>Weigh less</b>	<b>48%</b>

## HOPE FOR CONSENSUS<sup>4</sup>

Do you think it would be possible to get your community to agree on a set of basic values, such as honesty and patriotism, that would be taught in local public schools?

<b>Yes</b>	<b>69%</b>
<b>No</b>	<b>27%</b>

## TEACHING VALUES<sup>5</sup>

Should courses on values and ethical behavior be taught in the public schools, or should this be left to parents and churches?

All respondents:

<b>Taught in schools</b>	<b>49%</b>
<b>Left to parents/ churches</b>	<b>39%</b>

Parents with children in public school:

<b>Taught in schools</b>	<b>57%</b>
<b>Left to parents/ churches</b>	<b>34%</b>

Should the following traits be taught in the public schools? (percent saying yes)

<b>Respect for others</b>	<b>94%</b>
<b>Hard work</b>	<b>93%</b>
<b>Persistence</b>	<b>93%</b>
<b>Fairness</b>	<b>92%</b>
<b>Compassion</b>	<b>91%</b>
<b>Civility, politeness</b>	<b>91%</b>
<b>Self-esteem</b>	<b>90%</b>
<b>Thrift</b>	<b>74%</b>

## TEENS ON VALUES<sup>6</sup>

Percent of teenagers in each country who consider customs and traditions an important or the most important value:

<b>India</b>	<b>60%</b>
<b>United States</b>	<b>50%</b>
<b>China</b>	<b>37%</b>

## PARENTAL INVOLVEMENT<sup>7</sup>

Have you been involved with this parental group (PTA, PTO, some other parent group) in the following ways? (percent of parents saying yes)

<b>Attend special events</b>	<b>84%</b>
<b>Help fundraise</b>	<b>80%</b>
<b>Help with projects</b>	<b>75%</b>
<b>Attend meetings</b>	<b>69%</b>
<b>Curriculum decisions</b>	<b>24%</b>
<b>Tutor children</b>	<b>12%</b>

1. *The Council for Excellence in Government*, April 18, 1995 press release.
2. *The Pew Research Center for the People & the Press*, June 25, 1996 press release.
3. *The Wall Street Journal*, June 28, 1996.
4. *Gallup Organization*, June 1993.
5. George H. Gallup, Jr., *Religion in America: the 1996 Report* (Princeton Religions Research Center, 1996).
6. *The Washington Post*, June 27, 1996.
7. *The Public Perspective*, June/July 1996.

Compiled by Frank Lovett

MICHAEL BOCIAN

## JAPAN: HEART TO HEART

In Japan, thousands of ill people die because heart, liver, and most lung transplants are illegal. Unlike in the United States, where the end of life is defined as brain death, the Japanese do not consider someone dead until the heart stops. So while there is no law prohibiting transplants, doctors cannot perform transplants that involve removing an organ from a brain-dead donor. The country's only heart transplant occurred in 1968, and the surgeon who performed the operation was charged with murdering the brain-dead donor.

Japan's aversion to organ transplants is as much a result of cultural traditions as legal statutes. Takeshi Umehara, an expert in Japanese culture, explains that Westerners can accept brain death as a legitimate definition of death because they stress that humans are differentiated from other species by their ability to reason. Umehara claims that the Japanese, to the contrary, emphasize that it is more than the brain that constitutes human life.

Cornea, kidney, and bone marrow transplants are legal in Japan because they do not require a brain-dead donor, yet these operations are still very rare. For instance, fewer than 200 kidney transplants are performed each year in Japan, even though 20,000 ill patients are in need of healthy kidneys. In the United States, by contrast, 11,000 kidney transplant operations were conducted last year. According to Princeton University professor Soho Machida, "Japanese people are very uncomfortable bringing part of someone's body into them. It's like you have part of their soul." They are also troubled by the idea of donating organs because they believe that the body should remain intact for the afterlife.

Traditional Japanese conceptions of life and death have withstood the pressures of advancing technology. Rituso Ishikawa, a spokes-

man for a national group that opposes transplants, states: "This is a hard question, and this is the hard answer: Eventually everybody must admit it is time for that person to die."

As a result of Japan's antipathy to organ transplants, some Japanese are acquiring organs from brokers in other Asian countries where indigent people sell them for financial remuneration. For example, Japanese patients can purchase organs in the Philippines for about \$300,000 which covers the organ, the removal and transplant operations, hospitalization, the surgeon's fee, and the broker's fee. The donor usually receives a small percentage of the money. Other patients are travelling to America for organ transplants: one Japanese man raised \$380,000 to cover travel and treatment for a heart transplant in the United States.

When asked if those who have gone abroad for life-saving operations should have stayed at home and died, Ishikawa responded: "To have a fulfilled life does not necessarily mean to have a long life."

#### GERMANY: CIVILIAN SERVICE

Last year, 160,000 young Germans chose to discharge their 10-month military duty, replacing it with 13 months of work in hospitals, nursing homes, kindergartens, and other nonprofit agencies. For the first time, more Germans opted for civilian service than for military duty.

While three-fourths of countries that conscript regularly have a national service alternative for conscientious objectors, petitioners in most countries are subject to an intensive process to justify their moral or religious objections to military service. Since 1985, however, Germany has been very lenient in its conscientious objection applications, allowing nearly all who apply for such status to substitute civilian service for military service. The *Zivildienstleistende*, or "*Zivis*," fulfill their service requirements by working in the homes of elderly people, aiding handicapped people, helping in hospital examination rooms, or assisting organizations such as the Red Cross.

Germany has become largely dependent on the civilian servants to operate much of its generous social services at very little cost. *Zivis* receive a stipend of only \$700 a month, and usually live at home.

Occasionally, they are provided room and board by the employing institution. According to a study by the German army's Social Science Institute, every *Zivi* hired in place of a civilian saves an average of \$21,000 annually. German hospitals alone save \$1 billion annually as a result of civilian service. Without the many thousand young men who opt for civilian service, Germany's social services would face a major financial and personnel crisis.

Germans' reasons for avoiding military service are different now than they were when Germany's peace movement peaked from the 1960s into the 1980s. "It's more that people today have a feeling that there's a choice between two equal services—military service and civilian service," remarked Lieut. Col. Uwe Nemeyer, a Defense Ministry spokesman.

The principal objection to the lenient conscientious objector policy has come from the Defense Ministry where there is a fear that the higher levels of conscientious objection will impede the country's ability to generate a strong military force. Many of Germany's military planners, however, maintain that the level of conscientious objection has probably reached its peak.

### The Joys of Rationality

*Richard Posner, a federal court judge and leading rational-choice guru, has ventured into explaining some behaviors that we associate with the elderly. Why do old people seem to talk on and on? Because the "opportunity costs of time" for them are relatively low. And how are their love lives affected by the overall surplus of elderly women? "Spot" contracting replaces "relational" contracting in the sex market.*

## Canada: Not Too Different, Just Nicer

The essence of “Balancing the Individual and the Community: Canada versus the United States” by Seymour Martin Lipset and Amy Bunker Pool (Summer 1996), is that in a number of surveyed areas Americans place a much higher value on liberty than we Canadians do. In terms of balancing the individual and the country, the two peoples are clearly at very different points on the communitarian spectrum.

A number of interesting issues arise. One is whether Canada’s much longer period under British colonial rule accounts for our ongoing greater deference to constituted authority. Our own impression is that there is now a fairly brisk movement away from this habit of mind; if so, individual liberty is likely entering a new phase of public appreciation among Canadians generally. In terms of our Charter of Rights, for example, one hears numerous criticisms now of how our courts are interpreting it, often premised on the view that the Charter focuses only on maximizing freedoms and largely ignores one’s responsibility to the community. Nowhere perhaps is this more evident than in the Supreme Court of Canada’s approach to the admissibility of illegally obtained evidence. Arguably its current position is more flexible than the test of the American Supreme Court, but the difference seems minimal in practice. Canada’s crime rate, while thankfully substantially better than America’s, is closing the gap far too quickly for some violent crimes (e.g., rape).

Some of the academics quoted in the article are both overly romantic and possibly out-of-date regarding Canadians. The historian William Stahl, for example, is clearly not writing about the British monarchy as most Canadians would see it today. I am certain that the contention that “Canadians are more favorable to collective/group rights” is most correct among francophone Quebecers and Aborigines. Other groups of Canadians appear to be more skeptical, and probably share the view that an over-emphasis on group rights means an

equivalent reduction of individual rights. Given that the Quebecois are among those Canadians least likely to feel an attachment to the monarchy, it is unlikely that the monarchist explanation suffices.

Similarly, if the late George Grant wrote that Canadian courts are an arm of the state, few Canadians continue to see them in this light today. It is clear that the judges themselves do not see them in that manner. The Supreme Court of Canada clearly distanced itself from that role by expressly excluding certain judicial actions from Charter scrutiny in the *Dolphin Delivery* case. In so doing, the court implied that judicial decisionmaking was somehow intrinsically different from state action.

On the notion of democracy in the two countries, Lipset and Pool are on firmer ground. For example, they cited figures indicating that almost three in four Americans still see the right to bear arms as a basic democratic right; only 36 percent of Canadians share this opinion. Similarly, American courts are extremely reluctant to limit American guarantees of free speech. In Canada, we have adopted so-called “hate laws” in our federal Criminal Code that proscribe the dissemination of ideas that may encourage the vilification of groups. In so doing, Canadian legislators have recognized that the right of free expression may be limited by the valid right of minority groups to be free “from” experiencing the deleterious effects of such negative expression.

While the United States is more permissive of guns and speech, when it comes to the right of self-determination—which may be said to be the truest test of democracy—it is in Canada that this right is more fully realized. Last fall, 94 percent of Quebecers exercised this right in the referendum to determine whether they would prefer Quebec to remain part of Canada. Furthermore, following the 1993 Canadian federal election, the Bloc Quebecois, a party dedicated to Quebec sovereignty, became our Official Opposition in Parliament. Conversely, the United States Supreme Court held in *Texas v. White* that the union of American states is indissoluble and that secession is constitutionally repugnant.

There are a number of alternative explanations for the more communitarian outlook of Canadians. Perhaps it is a function of Canada’s unique history. Canada began as a union of two distinct

nations with two separate languages, religions, and cultures. Immediately, notions of protections for minority interests in each community evolved and were established in areas such as education. Canada's harsh climate probably played a part. Cold winters historically necessitated a greater willingness to assist others because of the very real risk of freezing. A more cynical perspective could be that since attitudinal changes follow behavioral changes (as a result of a need to reduce cognitive dissonance), Canadians grew to value the security systems that were put in place. Of course, this suggestion does not explain how the experiments began in the first instance.

Or perhaps Canadians simply like being liked. The Canadian universal medical care system is revered worldwide, and is valued greatly at home. Our social welfare system is one of the most generous in the world and truly seems to "care." Finally, Canada's encouragement of multiculturalism seems accepting and big-hearted. Canadians take great pride in their universal reputation as "nice," and may simply want to make sure it stays that way.

*David Kilgour, Deputy Speaker of the House of Commons,  
and Amy Pressman, assistant to David Kilgour*

## Geography as Destiny

The article by Lipset and Pool suggests that Canadians are generally more communitarian than are Americans. This point is rather self-evident to those of us north of the 49th. Nevertheless, it is an important one.

One explanation they offer for part of this difference is historical. It is true that the United States created its constitution after a group of middle-class entrepreneurial tea merchants rebelled against some aristocratic imperialists, while Canada was more or less, in their delightful phrase, "abandoned peacefully" by Britain. However, this does not adequately explain the divergent cultures that have resulted in these two New World countries.

A more direct, but less academic, explanation is to be found, I believe, in our climate. In the words of a 19th-century wit, Canada has five seasons—horsefly, mosquito, blackfly, housefly, and winter. The settlers lured here had to learn a special attitude to survive. That attitude was cooperation. Europeans quickly discovered what the Native Americans knew all along: to survive this harsh climate, you need a neighbor to help you build a shelter quickly, and to check on you occasionally to make sure you are still alive. This set the stage for Canadians' collectivist approach, and sense of social duty and responsibility that Lipset and Pool identify in their compilation of public opinion surveys.

Combined with the environmental reality of Canada is the fact that we have a resource-based economy. It is far removed from major markets, and from the powerbrokers who manipulate our commodity prices. We discovered early on that an effective way to beat the capitalists was to pool our resources and sell cooperatively. Consequently, Canada has become a nation that looks preferentially to the broader long-term community good, rather than immediate individual gain. Individualist approaches are fine only when elements bigger than other individuals are not ganging up on you. Even our heroes are not individuals. The United States has Daniel Boone, Johnny Appleseed, and George Washington. Canada has the generic Mountie, the Pioneer, and the Fathers of Confederation.

Canada's climate and geography enforced the notion of cooperation for survival. That in turn forged a culture of social responsibility that is now so deep-seated that even the 1981 passage of the Charter of Rights and Freedoms is unlikely to reverse it significantly. Many Canadians expected a major cultural cataclysm when we adopted the Charter. They assumed our collectivist attitude would be undermined by nonaccountable individualistic judges ruling on issues that the community, through the political process, ought to decide. However, the Charter has not posed the danger predicted. Larger forces—like cutthroat globalization, Disneyesque entertainment, and McFood—are undermining Canada much more successfully.

Lipset and Pool leave a slightly erroneous impression when they quote Canadian professor Patrick Monahan extolling the virtues of the Charlottetown Accord. It is true that this cobbled-together agree-

ment would have allowed for an even greater collectivist approach to issues like Aboriginal self-government and Quebec as a distinct society. However, in fairness, the authors ought to have mentioned that this Accord was summarily rejected by Canadians in a referendum. Not, I believe, because Canadians felt we had drifted too far from individualism. Rather, the Accord transgressed our notion of due democratic process. Lipset and Pool correctly note that Americans cherish life, liberty, and happiness, while Canadians hold dear peace, order, and good government. The Charlottetown Accord offended our collective sense of democracy. It was a back-room deal between political elites. As such, it was rejected, just as the Charter of Rights and Freedoms, also a back-room deal, has never been completely endorsed.

The Charter does not advance individualism so much as it helps corporatism. For example, “freedom of conscience and religion” means we now have Sunday shopping. A dubious benefit to the individual, and a challenge to the community. The Charter is primarily a bunch of innocuous freedoms, like “freedom of peaceful assembly” and “freedom of association,” that are not likely to be summarily curtailed in a democracy such as ours. Important and progressive rights that might make a real difference, such as the right not to be homeless, or the right to have a meaningful job, are conspicuously absent from the Charter. They are left to the legitimate political process, to be resolved by the collective will and the fiscal prudence of the people.

Nowhere is Canada’s collectivist approach more evident than in our health care. Canada has a single-payer system. That payer happens to be the state, so snooty critics charge that it is socialized medicine. But it is more than an ideological program. It is a cost-effective and efficient mechanism of ensuring that everyone has a right to a high standard of basic health care, regardless of income or contribution to society, employed or not. Consider these comparisons: Canada spends 10 percent of its GDP on health care. The United States, with its multiparty payer system, spends 14 percent of its GDP on health care. In the United States 14 cents of every health care dollar goes to administration. In Canada, administration costs are 0.7 cents per dollar. In the United States, champion of individual rights and freedoms, 35 million people lack the right to be free of medical worries, since

they do not have basic health insurance coverage. In Canada everyone is insured. And our mortality and morbidity rates are the envy of the world.

For whatever reasons—historical, cultural, or climatic—Lipset and Pool conclude that it is difficult to have a Canadian-style collectivist, responsibility-based approach to the solutions of major societal problems in the United States. Rather than look to public opinion surveys to bolster their argument, they need only contrast the two health care systems to spotlight the difference. For all our problems here in Canada, as I approach my dotage, I have made peace with Shakespeare’s prediction of *sans teeth, sans eyes, sans taste*. What I do not want, though, is to be *sans Medicare!* I would far rather hold out for the Canadian attitude of cooperation, compromise, and collectivity.

*Pat Lorjé, Member of the Legislative  
Assembly, Province of Saskatchewan*

## How to Overcome Identity Politics

I share with Betty Friedan (“To Transcend Identity Politics,” Spring 1996) the belief (or prayer?) that the time has come to transcend identity politics. Two decades of identity politics have improved the coloration and sex distribution of the wealth pyramid but left its shape untouched. The obsession with difference has painted us into corners. The cost of this obsession has been steep, and barely acknowledged by uncritical partisans of difference. Meanwhile, inequality is the issue that barely dares whisper its name. The suburbs are happy to walk away from the cities, the voters from the nonvoters, the winners from the losers. The social state withers away, and the devil takes those with the bad taste to be born poor. The catastrophic defeat of health care and recent passage of a brutal welfare “reform” (deform would be more like it) underscore the pathos of liberalism and the left. Surely if some of the energy devoted to cultivating difference had been devoted over recent years to attempting to paste together center-left majorities—if we had seen a Million Patient March or a

Million Parent March—we would not find ourselves reduced to shoring up a fragile welfare state against depredations still worse than the last season's.

But let us not pretend that a politics of equality is easily arrived at. Identity politics carries its satisfactions, while the politics of universals, inclusion, and equality feels, to most people, abstract. It sounds like a good idea but it does not feel like much because people do not live it, do not experience its prefigurations in a thousand institutions. Remember that people turn to politics partly for the emotional solidarities they find there. Whether the principle of community is ethnic, religious, sex, or sexuality, people find warmth and lineage in living in, or at least visiting, a world composed of those who resemble themselves. Having been stigmatized by dint of skin color, physical size and dependency, sexual preference, etc., they naturally want to defend themselves by trying to turn the stigma into a point of advantage. In a world in which everyone seems to have been assigned an identity card at birth, who doesn't want to sign up for her own card? And the political weakness of the sum of identity groups is offset by the day-to-day satisfactions: the identity-based caucuses, the professional niches, not to mention the material rewards that accrue to the upper sectors of the victim groups. The traditional rewards of pluralist politics are real.

After a full generation, identity politics is already a sort of tradition. It is built, in turn, upon a pluralist tradition that predated it in a culture proud to have been reared on immigration—language groups, ethnic-based machines, cultural diversity in the American grain. University politics enshrines this tradition. A full generation of activists have come to take it for granted. So we are not talking simply about reversing a myopic idea; we are facing an identity politics that is institutionalized. This can only be done if we build networks of support for people who want to overcome (which does not mean erase) identity politics in the course of creating something more inclusive, more ecumenical, more politically promising. And it can only be done if we show that a politics that transcends identities delivers results.

What has to be faced by those of us who want to see identity politics transcended is that the prospects of *trans*identity politics are troubled and need attention as fierce and devoted as identity politics

has received in recent decades. Downsizing is not the only economic problem. Welfare states (or what would better be called, in Northern European fashion, social states) are everywhere embattled by fiscal crisis, mobile capital, and the wage rush to the bottom. Conservatism is almost everywhere in the saddle—although in most of Europe it is a conservatism more egalitarian than America’s Democrats stand for.

Of all the prerequisites for overcoming the limits of identity politics, the most important is a revival of labor. The centrifugal tendencies of identity politics feed on the weakness of organized labor, and in turn weaken organized labor further. The good news is that labor, which ought to be the single most ecumenical institution we have where diverse people come together, wants to revive and is serious about doing so, though the revival is in its earliest stages. The new leadership of the AFL-CIO is asking for help, and is receptive. A revival of union strength ought to be the single greatest priority for progressives. Labor law reform ought to be a priority, for unions’ chances to sign up new members have been crippled by a generation of union-busters in power. There is not going to be any serious discussion of shorter work weeks, work sharing, economic democracy, or a reversal of the thrust toward greater inequality, without the rebuilding of labor as a countervailing force. On the other hand, if the politics of difference continues to prevail, the fight for a decent society is disarmed from the start.

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