

The Responsive Community

Volume 8, Issue 2, Spring 1998

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The Responsive Community (ISSN 1053-0754) is published quarterly by the Center for Policy Research, Inc., a nonprofit corporation. The journal is listed in the following indexing/abstracting services: PAIS, IBZ, IBR, and Sociological Abstracts. Microform copies are available through Microfilms, Inc. Distributed by EBSCO: (205) 991-6600; and by Ubiquity Distributors, Inc.: (718) 875-5491. Visit our web site at <http://www.gwu.edu/~ccps>.

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Subscriptions: Rates for individuals are: \$27 per year; \$48 for two years; \$17 per year for full-time students. Libraries and institutions: \$70 per year. Subscribers outside the U.S. should add \$7 per year for additional mailing costs. Send subscriptions and changes of address to: Circulation Manager, *The Responsive Community*, 2020 Pennsylvania Ave., NW, Suite 282, Washington, DC 20006-1846. Tel: (800) 245-7460. FAX: (202) 994-1606.

Editorial Information: Editorial correspondence should be directed to the Editors, *The Responsive Community*, 714 Gelman Library, The George Washington University, Washington, DC 20052, USA. We regret that we cannot be responsible for unsolicited manuscripts. If you would like to write for us, please send a brief manuscript proposal first.

UP FRONT

Verdict from the Community: It's Both, Stupid

E.J. Dionne Jr.

The Rev. Roosevelt Sanders, pastor of the Mount Vernon Community Missionary Baptist Church in Indianapolis, was tired of the open-air drug market operating near his snug house of worship. And he worried that members of his congregation who wanted to get clean had no place to go in the neighborhood for treatment. So he started his own program in cooperation with a successful treatment center downtown and bought a couple of houses to rehabilitate into treatment centers. He even got help from the city government. Not a lot—just \$5,000—and assistance in writing grant proposals to get the rest he needed. The money came from Mayor Stephen Goldsmith's Front Porch Alliance, which assists neighborhood institutions, especially churches, grappling with local problems.

If you cannot bear yet another argument about whether social problems are caused by large economic forces or the shortcomings of individuals, the Rev. Sanders is your guy. "You can't put all the blame on the system," he says, "and neither can you put all the blame on individuals." Amen to that. Individuals operate within systems that constrain their choices. But individuals are still responsible for the choices they make.

What Goldsmith is doing with partners such as the Rev. Sanders is important. It does not involve a lot of money, and it will not solve

most of this city's problems. The mayor is simply trying to get government to build on existing civic strengths.

Goldsmith admits that his program is small—the Front Porch Alliance spends less than \$500,000 a year—and that the good things it is trying to do are small. For example, the alliance has encouraged local churches and neighborhood groups to adopt nearby parks as their own and keep them safe and beautiful. The Catholic school at Holy Angels Church—it serves 193 kids, all of them black, 90 percent of them non-Catholic—needed something very simple: three hours a week at a nearby city gym for phys-ed classes.

Goldsmith is a hero to conservative Republicans around the country for his intense efforts to privatize city services. Doubts about Goldsmith's privatization plans were one reason why he lost a race for governor last year to Democrat Frank O'Bannon. But Goldsmith has heretical views about what decentralization and "devolution" of power to the states really mean. Goldsmith praises his fellow Republicans in Congress for many things, but he argues that "devolution alone won't make much of a difference."

"Taking large federal systems and transferring them to state systems that are often less professional and only a little smaller—that doesn't help cities or the poor citizens in them," he said in an interview. In other words, if your slogan is a variant on "power to the people," you have to remember that "the people" live in neighborhoods, not in governors' offices.

The Goldsmith effort is part of a search in communities around the country for ways to supplement or supplant government programs with voluntary and civic action. Some hope the voluntary sector can replace government. Others insist government must remain an important player in neighborhood revival, but will not succeed unless it enlists the energies of neighborhood associations and churches. The ideological argument is less important than the insight that if government does not root its activities in citizen efforts, it will be neither fully democratic nor effective.

But the Rev. Sanders's point about the relationship between "the system" and individuals goes to the heart of the issue. Over at Holy Angels School, the scene in the halls and classrooms could not be more

promising: the kids are happy, engaged and welcoming to strangers, full of questions and energy. But Father Clarence Waldon, the church's pastor for 27 years, and Sister Gerry O'Laughlin, the principal, say they are fighting large forces.

When he first began his work in the neighborhood, about 85 percent of the frame houses were owner occupied, Father Waldon said. "Now, it's way below 50 percent." In the past, he said, bank redlining got in the way of potential buyers. An interstate highway ripped through the neighborhood, displacing many stakeholders. Restoring a high rate of ownership, he said, is vital to strengthening the neighborhood. That will take money. Sister O'Laughlin points to the crack epidemic. It came late to Indianapolis and is driving up crime here. The neighborhood will not flourish again, she says, until the pushers are driven from the streets.

These neighborhood servants will keep working their hearts out. But absent outside help, they cannot stop the crime wave, and they cannot write hundreds of mortgages. Pastor Sanders, Father Waldon, and Sister O'Laughlin deserve allies.

Don't Blame Me, I'm Sick

John Leo

News reports say that "road rage" is on the brink of being certified as an official mental disorder by the American Psychiatric Association. Until now, most of us have assumed that drivers who cut us off and give us the finger are just irate swine. But no, they appear to be suffering from a mental disorder, just like schizophrenics.

Brand new diseases, including a lot of implausible ones, are an old story for psychiatrists and their professional bible, the Diagnostic and Statistical Manual of Mental Disorders (DSM). The DSM has been revised many times, usually with a few old diseases thrown out and a large number of new ones tossed in. Among those added over the

years have been caffeine-induced anxiety disorder, inhalant abuse, and telephone scatologia (making heavy-breathing sexual phone calls). Now a boom is underway in “Internet addiction disorder” (IAD). Last June, Cincinnati police arrested a woman accused of neglecting her children because of IAD. Huff people on the Internet suggest that the DSM might invent another illness as well: television viewing addiction. Possible criteria for a grave case: five sitcoms or four football games in a single day.

It is easy enough to make fun of all this, but there is a serious problem here. The DSM is converting nearly all life’s stresses and bad habits into mental disorders. Almost everything we feel or do is listed somewhere in the DSM as an indicator of some dread disorder. This

has the effect of creating and trying to enforce social values on the basis of scientific evidence that most people in the field admit is rather weak and unconvincing. In their book, *Making Us Crazy*, Herb Kutchins and Stuart Kirk point out that these psychiatric criteria include the inability to quit smoking, thinking a lot about a former lover, holding a grudge, having a hangover, and feeling apprehensive about giving a speech. No one criterion labels you as a psychiatric case, but the language of DSM makes it impossible to tell the normal from the disordered.

According to DSM-IV, one problem alone—general anxiety disorder (GAD)—will afflict 5 percent of the population, or 12 million people, at some point in their lifetime. “The pharmaceutical companies—the makers of Prozac, Xanax, and beta blockers for stage fright—love those numbers,” say Kutchins and Kirk. And GAD is only one of the 374 official disorders that psychiatrists say hit half of all Americans. Worse, the psychiatrists are busy broadening definitions and lowering thresholds so that much of the other half will be listed as disordered too. The clearest current example is attention deficit hyperactivity disorder (ADHD), a label now being applied to many perfectly healthy small boys who bother school officials by misbehaving in class. ADHD cases have nearly doubled in five years.

The growth market can be seen in all the new talk about “shadow syndromes,” or mild versions of serious ailments that many psychiatrists insist must be treated. Currently, five of nine criteria may have to be met before a disorder is diagnosed. A “shadow syndrome” may drop that to two of nine, thus creating many more sufferers. DSM-IV has its own version of “shadow syndromes”—i.e., the new diseases of tomorrow—listed in the back. They, too, include light versions of serious disorders. Some “shadowy” ailments may be real, but most appear to be the result of product differentiation by successful entrepreneurs. New disorders do for psychiatrists what the litigation boom did for lawyers.

Pharmaceutical companies have a stake in this too. Prime-MD, a simple one-page questionnaire used to screen for psychiatric problems, was funded by Pfizer Inc. In a recent study of a thousand patients, Prime-MD turned up 287 people with identifiable problems. A sympathetic newspaper report said: “In about half of these cases, doctors had failed to diagnose the problems in previous visits.”

Another way of saying this is that a screening test funded by a drug company doubled the number of people with psychiatric difficulties, many of whom will therefore be needing regular pills.

Psychiatrists are free to declare as many people disordered as they wish. But the effort and the concepts behind this are seeping deep into the culture, reinforcing the victim industry and teaching us to look for psychiatric answers to every social and personal problem. It is easier to sedate an alleged ADHD youngster with Ritalin than to do something about the environmental or family problems that might explain his behavior.

All this labeling has financial consequences. The effort underway in Congress to gain “parity” for physical and mental illness began as a way to ensure adequate coverage for severely disturbed patients. But it risks being turned into an umbrella for every new “disorder” psychiatrists think up and want to treat—a shift that probably would break the bank. If only half of the growing number of psychiatric disorders are paid for just like physical illness, the cost would be in the vicinity of \$75 billion, according to the *New York Times*. Do we really want to do this?

ESSAYS

Medical Decision Making: A Role for the Family?

Mark G. Kuczewski

One of the most significant developments in medical ethics in recent years has been the rediscovery of a role for the family in medical decision making. Historically, medical ethics in the United States has been strongly individualistic in orientation. Analysis of medical decisions has been based on classical liberal assumptions about privacy and individual rights, focusing narrowly on the physician-patient relationship and relegating other social relationships, including close family relationships, to a distinctly secondary role.

In practice, however, family members can, do, and often must play an integral part in the process of medical decision making. Lately in medical ethics we are beginning to find new ways to describe, and indeed to honor, the role played by family members in the patient-physician dialogue. This development coincides with a growing appreciation, among social thinkers, of the communitarian dimensions of human political and moral life. In medical ethics, as in contemporary social thinking generally, we are moving beyond the notion of what Harvard political theorist Michael J. Sandel has called the “unencumbered self” to a richer understanding of how the self and its values unfold in the context of our relationships with others.

Individualism and Informed Consent

Traditionally, the rhetoric of medical ethics has been relentlessly individualistic in orientation. Nowhere is this clearer than in the concept of informed consent. Informed consent constitutes the keystone of modern medical ethics; it is scarcely an exaggeration to see all medical ethics as a footnote to this central conception.

Informed consent reflects both legal and philosophical assumptions. At the heart of the doctrine is the legal principle that, as bioethicist Alan Meisel has written, “the right of a competent person to refuse medical treatment is virtually absolute.” Informed consent presupposes that the patient has received all information relevant to a decision to undergo or forgo a proposed treatment, and that he or she comprehends the information. It also presupposes that the patient is competent. Once these conditions are established, efforts to influence the patient remain legitimate; but all coercion is unacceptable.

The individualistic nature of this line of thinking is clear. The person is conceptualized as possessing a sphere of protected activity, or privacy, free from unwanted interference. Within this zone of privacy, the individual is able to exercise his or her liberty and discretion.

From a philosophical standpoint, the idea of informed consent draws on modern philosophical ideas of *personhood*. According to these notions, the person is inherently opaque to others and therefore the best judge and guardian of his or her own interests. Although the physician may be the expert on the medical facts, the patient is the only individual with genuine insight into his or her private sphere of values. Because treatment plans should reflect personal values as well as medical realities, the patient must be the ultimate decision maker.

Given this individualistic framework, it is easy to see the difficulties that ethicists tend to encounter when they attempt to factor the family into the informed consent equation. In practice, ethicists have tended to conceive of the family’s interests in the decision-making process as somehow competing with those of the patient. While such competition may arise in certain cases, this notion of competing individual interests does not by any means exhaust our sense of what

family relationships entail. We need a richer, more organic sense of how the individual relates to the family. For this I will turn later in this article to new conceptions of “process” models of decision making. But before I do, I want to review some examples of how current-day ethicists apply the competing-interests model in order to show the inherent limitations of this approach to thinking about the family.

Competing-Interest Models

Perhaps the boldest application of the competing-interests model to the family-patient problem is that attempted by bioethicist John Hardwig. Hardwig has advocated that we simply abandon our current patient-centered ethic in favor of a presumption of the *equality* of interests of each family member. Hardwig’s approach is as follows: The patient is usually vulnerable and in need of advocacy and protection. Therefore, there is a strong presumption in favor of the patient’s right to be the primary decision maker. However, for Hardwig, the patient’s rights do not necessarily trump everybody else’s. Hardwig takes an approach that is modeled on a balancing scale. The patient’s claims are usually weighty compared to the side of the balance on which family rights rest, and thus the patient’s choices are usually followed. On occasion, however, the interests of the patient are not very compelling, while the family may have a great stake, financially or emotionally, in what course is followed. Family interests should hold sway to some extent under such circumstances.

Hardwig’s formulation seems, at first glance, quite radical because he argues that morality automatically requires heeding family interests. Yet while prescribing a new balance between the patient and family, his proposal fails to transcend the individual rights framework. The result is a tendency to pose questions too much in either/or terms: either the patient’s or the family’s interests are being served, not both. In these legalistic discussions of interests and rights, the true nature of the links and bonds between family members becomes obscured. Clearly, there are many instances where the dialogue between patient and family members will involve more than simple conflicts of interest.

In my opinion, this failure to escape the limitations of rights-based thinking ultimately stems from a tacit acceptance of the legalistic

approach to informed consent. While trying to overcome individualism in medical ethics, ethicists such as Hardwig remain trapped by the individualism implicit in the informed consent model. To overcome the limitations of the individualistic perspective, informed consent itself must be rethought.

In a sense, the key issue comes down to how we formulate the question at hand. Should the appropriate question be: “Whose interests and wishes should take precedence when those of the patient and family conflict?” Or is the question rather: “What are the respective roles of the patient, family, and physician in medical decision making?” The first question has an initial attraction because of its clarity and practicality. Its answer is also clear: the patient’s wishes and interests generally must take priority. Answering this first question, however, does not explain the more general nature of the family’s role in medical decision making in the vast majority of cases that lack an irresolvable conflict. The latter requires, again, a basic reformulation of informed consent doctrine.

Reconceptualizing Informed Consent

The most promising new thinking on informed consent has come from the “process” theorists. At the heart of the process model is the recognition that the patient may not come to the medical decision with an already developed and fixed set of private values, but rather that the patient’s values evolve and develop in a *process* of shared decision making that involves the patient, the physician, and family members. Bioethicists such as Charles Lidz, Howard Brody, and Ezekiel and Linda Emanuel have taken the lead in developing such models. Note that the traditional legalistic, *event* model conceives of the patient and physician as experts over their respective realms, with the patient reigning over his or her private values. By contrast, *process* models view the physician, the patient, *and the family* as each having access to interrelated and evolving values and facts. They mutually monitor each other in order that their thinking and evaluations become transparent. This new model allows more integral roles for the family as well as the physician. Let us illustrate this with a case.

Mrs. L was a 50-year-old female who was transferred to a tertiary care facility from a primary care hospital. Her husband visited daily.

She also had several brothers and sisters but no children. Mrs. L's recent problem concerned multiple external lacerations on her hands, chest, and groin area as well as kidney failure. These health problems were related to her long-term insulin-dependent diabetes. She had suffered from diabetes since childhood, but the complications and consequences of this illness had increased recently with a leg amputation being necessary about a year before. Shortly thereafter, dialysis was begun.

The patient was transferred to the tertiary care facility to have her lesions biopsied for diagnostic purposes, which was very painful to the patient. Finding the source of the lesions proved difficult and the hospitalization became prolonged as other complications developed. Ms. L was in great pain and was placed on a sand bed and given a patient-controlled analgesia machine to help provide relief. Despite these measures, pain continued to be a factor in the slow process of diagnostic testing.

Mrs. L began to ask the nurses to stop dialysis. These requests began about one month into this hospitalization and continued at intervals. Each time the requests became frequent, a discussion would be held with Mrs. L, her husband, and the attending physician. In these meetings, Mr. L would often ask Mrs. L to change her mind regarding the dialysis, or other tests she was resisting, "for him." Each time, this request was granted by the patient after some resistance. On a couple of occasions, the patient agreed to further diagnostic work if her husband would be able to be with her through the test. The nursing staff became increasingly unnerved by the situation as Mrs. L would often continue to tell the nurses that she "really" wished to stop and "just wanted to die in peace." This particular wish was always superseded by the results of the patient-husband-physician conferences. Eventually, it seemed that the patient's husband also grew tired of the long hospital stay.

About eight weeks into her hospitalization, Mrs. L became more adamant in her treatment refusals during a conference with her husband and physician. Mr. L then agreed to accept her wishes and agreed to stay by her during her death. The physician wrote a "do not resuscitate" order on the chart along with orders to discontinue dialysis. Palliative care continued to be provided. The patient died within forty-eight hours, with her grieving husband at her side.

This case is likely to be reported to an ethics consultation service as involving a familial “conflict.” Such conflicts are supposedly what the literature on the family analyzes. Nevertheless, such analysis would be inadequate because a legalistic, event model of informed consent does not explain the interaction between Mr. and Mrs. L. Any view of informed consent or the family premised upon a patient with a sturdy set of interests and values must necessarily be beside the point for the following, simple reason: *Mrs. L’s wishes and values were not clear to her.* And that is where process analysis comes in.

An Interpretive Process Model

There are two versions of the process model of informed consent: the *interpretive* and the *deliberative* approach.

The interpretive model starts from the assumption that there is a gap between a human being’s permanent “core values” and those inclinations that are relatively transient, circumstantial expressions of her personality—her “preferences.” In many situations, our preferences reflect no more than taste or whimsy. In choices of gravity, however, we would ideally wish our preferences to reflect who we are—that is, to follow from the values at our core. Sometimes people come to situations with their values and preferences already developed and in harmony. Nevertheless, to assume that this is generally the case in clinical situations is not plausible. Why assume that a patient has well-considered preferences regarding situations that are rather new? As his or her prognosis changes, new treatment choices will arise, and the relative merits of ongoing treatments may change. Additionally, the patient gains new appreciation for various treatments as he or she accumulates experiential information from undergoing them. This continuous refinement of knowledge and development of preferences are important aspects of process approaches to consent.

The interpretive approach focuses on the process of translating core values into specific preferences. The patient may possess stable values—for example, love of her husband, desire to be relatively pain free, etc.—but not yet know how to apply these values to particular treatment choices. Hence, as she gains experience with the treatment

and refines her understanding of her illness, the choices follow. The *interpretive process* model differs from an *event* model of informed consent in two key ways. First, the process model sees the family's role in restoring the patient's thinking as primarily one of providing the appropriate surrounding and context through presence and interaction. "Restoring the patient's thinking" is an experiential and interactive process. Second, the interpretive process model rejects the idea that the patient's values and preferences are completely opaque to others while the patient has privileged access. Interpreting our values usually involves the feedback of those close to us and often the advice of persons with professional expertise. Just as we are uncomfortable with the idea that a family member can gain access to the patient's real values and definitively say when he or she is being herself, so too there is something unrealistic in thinking that the patient has private and privileged access to his or her values. The feedback of others is necessary to one's reality testing and the construction of an interpersonal narrative that forms the framework for choices. Thus, the process of decision making is interpretive in nature.

To be sure, some event models of informed consent attempt to factor in the role of family advice. The interpretive model, however, goes farther in recognizing the ambiguities and complexities of the patient's thinking process. Though the patient may be quite capable of a syllogistic deduction of treatment choices from her values, the interpretive model takes into account that illness may distance a patient from his or her identity and cause a loss of touch with everyday values. Family members do not merely help the patient to clarify his or her thinking. They take part in the patient's *narrative self-discovery* that helps him or her to reconnect with his or her values and give them meaning as expressed in choices. This self-discovery is not prior to the event of giving consent, but, in a sense, is the process of informed consent.

The Deliberative Model

Our initial hope in cases like Mrs. L's is that matters unfold as the interpretive model suggests: a changing prognosis and new treatment options will interact over time with a relatively stable set of values to produce rational treatment preferences. But values themselves do not

always prove stable enough to serve (so to speak) as an Archimedean fulcrum. Mrs. L's values or vision of the good may not be sufficiently developed to make the choices confronting her. In other words, the patient may not simply be *uncovering* values but also *creating* them. That is where the *deliberative* model comes in. For instance, one may never have developed values or virtues relating to extreme pain or never needed to develop more than the sketchiest concept of personal dignity. Perhaps such dispositions and character traits exist but are undergoing radical shifts. If so, the justification for family involvement becomes all the clearer. When values must be constructed, this construction process is unlikely to be an individual affair.

Ezekiel and Linda Emanuel explore this process of choosing oneself and one's values. In this model, the physician assists the patient by elucidating the values embodied in the different treatment options. Because the patient's values are not fixed, the physician is free, even obligated, to advocate certain values. He is helping to shape the patient's values through his recommendations. The Emanuels do not mention the family in this process, but a strong case can be made for familial involvement on these same grounds. Because we discover our values in dialogue with those closest to us, the family is naturally an integral part of this process. In Mrs. L's encounter with her physician and husband, she is coming to choose her values over time.

If we assume that values do not simply emanate from some ineffable core within us but take shape through interaction with our environment, the family is a natural part of this process. Much of our youth is spent internalizing the values of close others. In adult life our values usually are not acquired through mere passive internalization; rather, the process has a dialectical character. Furthermore, we seldom arrive at our values in a single, irrevocable act of will. Instead, values must become sturdy and defined if they are to form the foundation for our preferences. They must take shape and become concrete. By "trying out" expressions of these developing values with close others they begin to take shape and become firm.

There is still a further reason for including the family. As in Mrs. L's case, the most important values at issue are often those having directly to do with family and loved ones. In part, the values Mrs. L is

developing or re-ranking are about her love for and relationship to her husband. To truly know whether she has arrived at the proper ordering may require testing them together with him.

Similarly, her husband's values may also be developing and changing—values directly applicable to her. In this particular case, Mr. L eventually tires from the prolonged course and then supports his wife's treatment refusal. We do not know whether this is adapting his same long-held values to a changing situation (the interpretive model) or a fundamental reordering of priorities (the deliberative model). Either way, informed consent is a process of *mutual self-discovery*. Family does not simply provide the context for the patient's thinking in the way a familiar object would. In the process of decision making, the context is also dynamic.

In sum, we see that process models of informed consent make better room for active roles on the part of both physicians and families in the medical decision-making process. This appreciation for the often inherently collaborative character of the decision-making process follows from a recognition that values are not the hidden, fixed, and privileged property of the individual. They take shape publicly, and when they are opaque or absent their discovery or construction is a communal process. In other words, the process models of informed consent suggest active roles for the physician and family and we must more clearly define and circumscribe these roles. In cases like the one at hand, these are not abstract questions. There is something about Mr. L's behavior that makes us uneasy and raises the question of the physician's obligation to the patient and to Mr. L.

A New Role for Physicians

One consequence of this reconceptualization would seem to be a stronger role for the physician, since under the process model the physician comes to play the part of an advocate of certain values. There are two somewhat opposing concerns at issue here. On the one hand, since we are allowing a much greater role for the family, we need a counterweight (in the form of the physician) to prevent the family's role from becoming a coercive one. On the other hand, we do not wish the physician's role to become coercive or paternalistic in turn.

Ezekiel and Linda Emanuel argue that the physician's advocacy is inherently legitimate because he or she only advocates health-related values. This is true enough in the simplest cases. It is easy to imagine that health is more worthwhile than sickness, and therefore a physician can advocate good eating, hygiene, and exercise habits without controversy.

But what about when the situation becomes more complex, as in the case of Mrs. L? Under such circumstances, how can the doctor avoid his professional bias to treat this patient as long as there is a medical treatment at hand?

Perhaps we can take a cue from the literature on patient competency and suggest a "sliding scale" or "risk-related" standard of advocacy. In assessing patient capacity to give informed consent, the standard of competence is normally based upon an assessment of the risks and benefits of a proposed course of treatment. When patients wish to consent to a treatment that poses few risks and whose benefits are considerable and clear, they do not need great comprehension of the situation. Mere awareness will justify allowing the patient to make this decision. However, to refuse this same treatment, especially if the refusal will place the patient in great jeopardy, we need to be sure the patient truly appreciates the ramifications of her choice. As the risks of a treatment increase and the benefits become more dubious, one again relaxes the standard of competence needed to refuse. The physician need only require that the patient understands what she is being told.

This same schema might be applied to the collaborative decision-making process in the following fashion. Instead of focusing on the patient's cognitive capacity, we can apply a similar risk-benefit scale to the relative stability of her values. For instance, to refuse a clearly beneficial treatment that poses few burdens, the decision must represent rather stable values of the patient. If the refusal does not represent such stable values, the physician is justified in more strenuously advocating the treatment. Thus, by advocating "health-related values only," we are talking about common notions of clear benefits to health. When such benefits are not so clear, advocacy recedes. This same schema can guide the physician in deciding how intense to allow the family's persuasive efforts to become.

Mrs. L's case reflected this sliding-scale model of decision making. Early in the patient's treatment course, it was thought that diagnostic work would reveal the cause of her lesions. The caregivers hoped that once the etiology was revealed, the lesions could be treated and the patient restored to a more comfortable state. Refusals of treatment and diagnostic work at that point would have run counter to a commonsense notion of a risk/benefit calculation. Thus, the physician was justified in further investigating the strength of the patient's views and whether this refusal was "in character," that is, reflective of relatively stable values. In this kind of investigation, the family can be helpful. If the refusal was firm enough to stand up to the influence of the physician and husband, of course, the refusal should have been honored. But it was not.

As the course of diagnostic work and treatment grew longer, the expected benefits of the medical interventions declined in value. At the same time, the persistence of Mrs. L's requests to stop dialysis indicated that this desire reflected a new value that was becoming stable or that she was interpreting this treatment refusal as indicative of her long-held values. Thus, the exertion of influence to persuade the patient differently became less and less justified.

Fortunately, the influencing family member also came to discover and hold the same values or same reinterpretation of old values as the patient. He engaged in the process of mutual self-discovery with her. Had Mr. L failed to evolve in the way Mrs. L did, the sliding-scale approach would have justified the physician's influencing Mr. L to acquiesce to his wife's wishes and persuading Mr. L to be supportive of her desires in the conferences. If this effort had failed, the physician should have sought formal institutional mechanisms to protect the patient from her husband's influence. In other words, although Mr. L's behavior might have remained the same, the changing clinical situation and the development of stable wishes or values in the patient meant that his persistence would no longer be seen as influence, but as coercion.

The physician remains the patient's advocate. He tries to relieve the patient's pain and suffering and restore her to health. To determine the means of doing this, and to be sure that such means do not violate

the patient's autonomy, the physician must engage in the process of informed consent with the patient. In some cases, the family will provide assistance merely by verifying the patient's competence by vouching for the stability of the patient's values and wishes. In other cases, these values may be below the surface and need to emerge to meet the weighty challenges posed by the illness and choices that must be made. The family provides a kind of personal and social context for the exploration of the meaning of values for the present situation. Sometimes, however, the situation requires that new values be chosen or developed because there are none available that adequately address the changing situation. In these situations, the physician is truly "treating the family" because they are the soil out of which the patient's values and preferences grow.

As we have noted, the physician must be careful to monitor the emergence of such values in both the patient and family and to assess their relative stability. In doing this, he is doing no more than has traditionally been seen as assessing competence to give informed consent. In these assessments, he must muddle through with his professional and commonsense evaluations of the merit of proposed treatments and the rationality of choices that are made. Ultimately, he must be willing to engage in a process that strains the limits of his clinical judgment.

Conclusion

Clinicians may be running well ahead of medical ethicists in dealing with families. This is a surprising situation for bioethics because of clinicians' initial resistance to the development of informed consent procedures. However, when it comes to the role of the family in medical decision making, ethicists have fallen prey to either/or thinking; for example, the patient's wishes versus the family's. As I have sought to show, such an approach betrays a misunderstanding of the true nature of the individual, of the role and nature of values, and of the role of families, physicians, and others close to the individual in the bringing of those values to the surface. Only when we properly understand the *process* of informed consent, and the role of the family and others in that process, can we properly evaluate and facilitate medical decision making.

Ultimately, I am advocating that we view the development of patient autonomy as the *goal* of the process of informed consent, rather than as something given or in need of restoration. The family members, who have been reciprocal participants in the patient's formulation and interpretation of her values, have a natural place in this ongoing process.

The Right to Be Wrong— Heretical Thoughts of an Ex-Newscaster

Carl Stern

One reason for the increasingly tabloid character of the media is that the U.S. Supreme Court in 1964 created a “right to be wrong.” No event in my lifetime did more for freedom *of* the press. And *for* the press. But the ruling, in *New York Times v. Sullivan* and cases that followed it, also had the unintended consequence of coarsening public life and promoting slipshod journalism. I believe the “right to be wrong” needs to be trimmed, even though that may seem heretical coming from someone who was a working journalist for 34 years.

The “right” generally liberated the media from the risk of ruinous libel suits when they reported on the activities of public officials or public figures—a category that has grown to include almost everyone the media considers newsworthy. Intended to foster robust civic discourse, it has resulted just as often in articles about such things as movie-star Tom Cruise’s sperm count, or a story, based on nothing more than innuendo, claiming that President George Bush had a romantic liaison in Switzerland with his former secretary. In the President Clinton-Monica Lewinsky matter, the standard has been recalibrated even lower.

Simply put, emancipation from harm has meant emancipation from responsibility. It upset a balance that used fear of being sued for error—an appropriate penalty since the news business *is* a business—as a means of promoting high levels of journalistic performance. Removal of that risk was intended to benefit the community by encouraging free speech. Instead it has devalued speech. We are drowning in speech—much of it of dubious usefulness or reliability.

There is little point in having more speech if the public is increasingly wary of it.

The Court's Reasoning—and What It Missed

Times v. Sullivan was decided at the emotional height of the civil rights revolution. It grew out of an effort by Montgomery, Alabama police commissioner L.B. Sullivan to silence his critics. After the *New York Times* ran a fund-raising advertisement assailing police conduct during civil rights demonstrations in Montgomery, Sullivan sued. He contended that the ad contained numerous inaccuracies and libeled him.

In a unanimous decision, the U.S. Supreme Court ruled that because the Constitution envisages “breathing space” for uninhibited, robust, and wide-open debate on public issues, a public official such as Sullivan could not bring an ordinary libel case. Instead, he would have to show with “convincing clarity” that misstatements about him were made with “actual malice”—that is, knowing that they were false, or with reckless disregard of whether they were false or not. In short, the statements would have to be more than negligently wrong. They would have to be lies.

Later decisions extended the ruling beyond public officials to all individuals and entities involved in matters of public concern, so-called public figures. As for defining “reckless disregard,” the Supreme Court said that occurred when an assertion was printed or broadcast as true despite the publisher’s high degree of awareness of its probable falsity, or serious doubts about it. A similarly high barrier was raised for suits by public officials or public figures claiming invasion of privacy or emotional distress. The definition of public officials and public figures included such diverse individuals as an accountant, a county social worker, a real estate developer, book authors, and athletic coaches, and such business entities as an animal kennel and a lawn mower repair shop.

In its enthusiasm, the Court rejected a central tenet of journalism—the requirement to “check it out.” Although some justices, notably John Harlan, argued strenuously that “reckless disregard” should include “highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily

adhered to by responsible publishers,” a majority of the justices declined to accept such a standard.

Previously, several states had tried to accommodate the press’s need for “breathing space” by adopting a “gross negligence” test for the reporting of public affairs, shielding the media from liability except when reporters had egregiously fallen short of professional standards. But, that, too, was rejected by the Supreme Court as insufficient. Even private figures were to be limited to actual or compensatory damages, unless actual malice was shown. Open season was declared. Nowhere was that proclaimed more flamboyantly than in a 1974 case when the high court warned public officials and public figures that if they couldn’t stand the heat, they should stay out of the kitchen. It said:

The communications media are entitled to act on the assumption that public officials and public figures have voluntarily exposed themselves to increased risk of injury from defamatory falsehood concerning them.

It didn’t take long for news managers to understand that the need to check statements for accuracy had been eliminated, at least in reporting matters involving public officials and public figures and matters of public concern. The idea of a duty to use care, fundamental to tort law, was no longer relevant. Under the law of unintended consequences, *Times v. Sullivan* had put a premium on *not knowing*, on not poking around lest doubts arise. In the late 1970s, inquiring about an error in a magazine article, I had the editor tell me no effort had been made to verify the copy, submitted by a free-lancer, because checking it might expose the magazine to liability it no longer had. He cheerfully told me it was his magazine’s policy not to check anything.

I doubt very much that the high court intended to promote such an ethic. When William Brennan wrote *Times v. Sullivan* he likely assumed that minimal standards would be maintained and that the media, which had been given so much in the decision, would hold down its end of the deal. Of course, there was no deal. No negotiation. Court decisions are made in the light of the circumstances at the time.

The Newsroom in Flux

Today, those circumstances have changed, not only in response to *Times v. Sullivan*, but in the convergence of factors that have led to the

tabloidization of even mainstream media. When I entered broadcast journalism in the late 1950s at a local station in Cleveland, all copy was reviewed by an editor. At the network level, the process was more vigorous. Copy editors were the bane of every reporter's existence, our Torquemadas. Statements had to be defended, words justified. Today, facing little economic risk for inaccuracies, many broadcast news agencies have eliminated copy editors.

News organizations have also been more likely to replace veteran reporters with less experienced "communicators" who may be paid less, or be regarded as better suited to audience preferences despite deficiencies in reporting skills. And the nature of stories has changed. Increased competition, and the need to produce large profits for corporate owners, places a premium on so-called "gotcha" stories, which are more accusatory and painful to the subjects. There is a tendency to push stories to the limit, suggesting implications of wrongdoing that far exceed the known facts.

Nor is there substantial peril in "hying" stories. The task of show producers is not only to demand words that best describe an event, but to find the most exciting words. My conscience may have bothered me when I was instructed to add exaggerated or misleading words, and I may have voiced my disapproval, but, as a reporter covering government activities and court cases, I felt perfectly *safe* in obeying those instructions since I was dealing with public figures and matters of public interest. And who defined such individuals or matters as "public?" I did, by putting them in a news report. I could create my own immunity. In the heady world of life after *Times v. Sullivan*, I was beyond the normal cares of the "old journalism." I enjoyed a court-created free fire zone.

At the same time, news staff downsizing and other cutbacks have meant more and more reporters rely on others for their information, often people of unknown journalistic competence or motivation. There was a time when news agencies prided themselves on putting their own correspondents and photographers in the field. Today, much of the news business, especially in broadcasting, consists of repackaging information and pictures obtained inexpensively from someone else.

And all of this is done in ever shrinking time frames. In the era of round-the-clock news and constant talk, only a dwindling number of “purists” wait to check things out. In broadcasting, news managers have been fired for being minutes, or perhaps even seconds, behind their competitors. In the Clinton-Lewinsky matter, the *Wall Street Journal* posted an inaccurate report on its World Wide Web site while its reporters were still trying to confirm it. A *Journal* reporter, quoted in the *Washington Post*, explained, “Ideally, it’s not the way you’d want to do this. We heard footsteps from at least one other news organization and just didn’t think it was going to hold in this crazy cycle we’re in.”

In short, the media are using all of the freedom bestowed by *Times v. Sullivan*—to elbow the competition and to make money. Freed from the worry of being sued for inadequate performance, bottom-line driven media have been able to escape the expense of quality control that everyone else who does business with the public has to accept. Occasionally, news agencies will pay to settle lawsuits with a sympathetic libel plaintiff, such as supposed Olympic Park bombing suspect Richard Jewell. They say they do that “to preserve the integrity of the editorial process.” Translation: news agencies do not want to be forced to reveal how little journalistic effort is made these days to weigh and verify what is printed or put on the air.

Solving the Problem: The Court Must Take the First Step

In one respect, the Supreme Court’s purpose *is* being fulfilled. The media have become a gusher of information about public personalities and public issues. New formats—from TV news magazines to the Internet—add to the torrent every day. But that does not tell us whether more information, less meticulously checked, is producing more libel and injuring more people. There are no statistics, in part because the best source of statistics—lawsuits—was largely eliminated by *Times v. Sullivan*.

Yet intuition and anecdotal evidence suggest more libel is occurring. Certainly, it would be unreasonable to refuse to do anything about it until and unless hard numbers are produced. But what can be done? For starters, the Supreme Court, which “found” in the First Amendment the need for an actual malice requirement, could just as

easily “find” that the remedy it created was too broad. Congress and state legislatures could assist with appropriate legislation.

The Supreme Court decisions were too broad in two respects. First, they went too far by extending the “right to be wrong” to almost any subject matter, as long as the individuals involved were public officials or public figures. In theory, the creation of the “right to be wrong” was intended to invigorate public debate. The District of Columbia Circuit Court put it succinctly in a pre-*Times v. Sullivan* case when it said, “Whatever is added to the field of libel is taken from the field of free debate.” But, much speech adds nothing to public debate. Public debate is defined in the law as information needed by society to cope with the exigencies of life. How vigorously have the courts applied that standard? What about information that is *not* needed by society? Why should news agencies be protected in the dissemination of information that has nothing to do with the purpose for which the rule was adopted? At a minimum, media coverage of public officials or public figures should benefit from *Times v. Sullivan* protection only when issues of public importance are involved.

Judges may be loathe to get into the business of deciding when statements concern matters of public importance. Their reluctance is understandable. But is that harder than defining who is a public figure? Or deciding what is “newsworthy” or of “legitimate public concern” in invasion of privacy lawsuits, as the law now requires? The courts cannot leave it to the media to define what matters are public, or to accept the seductively simple, circular reasoning that anyone the media considers newsworthy enough to be written about is, ipso facto, a public figure.

In truth, a Supreme Court majority has never ruled that statements about purely private matters come within the “right to be wrong.” Yet, when public officials or public figures are involved, it is axiomatic that courts will impose the “actual malice” test, generally precluding liability, whether or not the matter concerns an issue of public significance. The Ninth Circuit Court of Appeals noted in a 1989 case that, “We doubt that it is possible to have speech about a public figure but not of public concern.” Robert D. Sack and Sandra S. Baron, authors of the Practising Law Institute’s *Libel, Slander, and Related Problems*, reported in 1994 that the case law involving public officials

or public figures was “virtually devoid of instances where a published report was held not to be a matter of legitimate public interest or concern...”

What public purpose justifies such an extravagant expansion of the “right to be wrong”? Surely some matters involving public figures are no one else’s business. The courts could restore a large measure of media accountability by limiting *Times v. Sullivan* protection to its original, narrower purpose.

The second respect in which the Supreme Court decisions were too sweeping is that they eliminated the principal mechanism for identifying and branding sub-standard journalistic performance. As it works now, *Times v. Sullivan* is a complete barrier to adjudication. There is no incentive to acknowledge error or print retractions. Writing about public officials or public figures is virtually risk-free.

This is not to say that there have been no efforts to address the problem. Two decades ago, there was an independent body—the National News Council—that investigated complaints against the news media and issued findings. However, it failed to have an impact on the press or public. Nor have libel resolution centers, which have been suggested from time to time. Some academics have recommended that a type of declaratory judgment action should be available that would permit a court determination of the truth or falsity of an alleged libel without addressing fault or compensation. In 1985, a bill to create such a process, H.R. 2846, was introduced by New York Congressman Charles Schumer. That idea also failed to excite interest.

Probably the most workable solution would be to permit libel suits to proceed—even when they involve public figures, public officials, or public issues—but to limit damages. In that way, news agencies would not face an economic death penalty merely because they were wrong. The risk of paying modest damages would not deter or “chill” the desire of news agencies to tackle tough or controversial subjects. Yet they would be held accountable. And limiting recoveries would be fair to libel plaintiffs. Most want to clear their names, rather than obtain big-buck libel judgments. A \$50,000 cap on damages might be enough to permit a plaintiff to retain a lawyer and to dissuade a defendant from thumbing his nose at the process by defaulting.

An alternative might be to limit a prevailing party to an award only of reasonable attorney's fees, or to require that judgments won by public officials or public figures in excess of out-of-pocket costs be paid to the state. In California, where cases in the wake of *Times v. Sullivan* largely eliminated the opportunity to sue for libel, a bill supported by the Screen Actors Guild presents still another possibility. It would allow the *state* to collect civil penalties of up to \$250,000 for each proven libelous statement.

Since most of the changes we have seen in the media are the result of economic decision making, it seems only fair to use at least modest economic penalties as a means of encouraging news agencies to spend more to get it right. If they wished to, states could also provide for non-cash paying pathways out of litigation. For example, public acknowledgments of error could end a case. For those who fear that opening the courts would open the floodgates to hordes of people angry at what the media said about them, sanctions could be imposed by judges to curb ill-founded or vexatious libel suits, as they are in other cases.

Designing the best remedy, or a range of remedies, is the sort of work legislators perform. It is not for the Supreme Court to do so. However, as long as the high court continues to provide virtual immunity for media comment on public officials and public figures, legislators are deprived of the chance to create adequate protection from false and harmful statements. There is no legislative experimentation that might prove beneficial.

My guess is that a lot of journalists would welcome a return to stricter accountability. News people don't like being held to a lower standard. Journalism has emerged from its free ride not stronger, but weaker. Not better, but worse.

The Supreme Court's instinct was right. Ruinous libel suits, or the threat of such suits, should not be a device to stifle coverage of value to the public. But, there are ways to preserve that interest without rewarding irresponsibility. It's time for the Court to take another look at the issue.

Managing Confrontations: Lessons from Abroad

Deborah Tannen

It is almost an article of faith for many Americans that disputes should be settled by the disputing parties without outside interference. Parents often send their children back to the playroom or playground with instructions to settle fights for themselves. Relatives and friends can be heard to say, "It's between the two of you. I'm not getting in the middle." The Western view of intermediaries is reflected in the fate of Mercutio in Shakespeare's *Romeo and Juliet*: When he tries to break up a sword fight between his friend Romeo and Romeo's enemy Tybalt, Mercutio is accidentally speared and killed, living just long enough to utter the now-famous curse, "A plague on both your houses!" Even psychologists tend to regard it as a sign of maturity when someone settles disputes without third parties, whose intervention may be regarded as unhealthy and inappropriate enmeshment.

Yet many people of the world expect conflicts to be resolved by intermediaries. This reflects an emphasis on harmony and interdependence: the tendency to see individuals as located inextricably in a social network, in contrast to Americans' tendency to glorify independence and see the individual as the fundamental human unit. To manage disputes ranging from private family matters to public conflicts between villages, cultures develop both habitual ethics and formal proceedings, just as we have assumptions about how to fight fair as well as legal trials. Some cultures have ways of settling private disputes that involve the participation of others; these can be formally ritualized events or informal ways of involving the community in settling disputes. We cannot simply adopt the rituals of another culture, but thinking about them can give us pause and perhaps even ideas for devising our own new ways to manage conflict.

The Calming Power of Intermediaries

Takie Sugiyama Lebra explains the many benefits that the Japanese see in using intermediaries to settle disputes. For one thing, intermediaries provide a motivation to settle the conflict: to save face for them. A go-between can also offer the needed apology without the principal losing face and can absorb rejections without taking them personally. This benefit is particularly clear in the use of matchmakers or marriage brokers, a practice common in many cultures of the world: it avoids the risk of a potential bride (or her family) rejecting a suitor to his face. Finally, intermediaries can put pressure on someone to act properly without risking the direct conflict that can ensue when people make demands for their own benefit, as when neighbors pressure a son or daughter-in-law to stop neglecting a parent or parent-in-law. In other words, community pressure takes the place of a humiliating one-on-one confrontation: “You never call me!”

Using third parties to settle disputes is not limited to Asian societies. Many cultures of the Pacific also make habitual use of this practice, often in the form of rituals in the sense that they are formalized enough to have names and standard structures or rules. As in Asian culture, they typically draw on hierarchical relations to maintain harmony.

In native Hawaiian culture, for example, there is a word, *ho'oponopono* (to set things right), for a ceremony in which family members invite an elder or other high-ranking mediator to oversee the resolution of a dispute. As described by Stephen Boggs and Malcolm Naea Chun, the leader invites disputants to air their feelings and encourages them to apologize and forgive each other. The leader calls on a higher power—God and Church—to offer forgiveness, too. Hierarchical social relations play a major role, as they do in another ritual, *ho'opapa*, a verbal contest of wits and insults that can be played either for fun or in earnest combat, to establish superiority between rivals. But in the case of the dispute resolution ritual, there is no competition for superiority among the disputants, who are equal in their subordination to the elder who brokers the truce.

Karen Watson-Gegeo and David Gegeo describe a similar ritual among the Kwara'ae of the Solomon Islands. *Fa'amanata'anga* is held at home, in private, within a family, often after a meal. Here, too,

hierarchical social relations are key. The ritual is presided over by a senior family member, who brings the weight of his standing to the peace-making mission and also emphasizes both his own stature and the seriousness of the event by speaking in a formal, high rhetoric to exhort the disputants to end their conflict.

One of the most intriguing accounts of how disputes are settled in this part of the world, described by Lamont Lindstrom, is found on the island of Tanna in the South Pacific. Conflicts among villagers or between villages are discussed publicly by groups of adult men at special meetings that last all day. These meetings differ strikingly from our idea of conflict resolution in that they are not designed to reconcile the individual accounts of disputing parties and elicit the truth of what happened. Instead, all the people present, disputants as well as others, come to a public agreement about what happened and how the conflict should be settled. They speak of these events not as competitions or warfare among opposing interests but as voyages through space in which they all take part—joint voyages in which all travelers reach the same destination. They perceive the conclusion not as a balancing of competing individual interests or even a compromise but of a consensus flowing from the interaction of all. Here, too, hierarchy plays a role, as the ones who begin to articulate the sense of the group tend to be those with greater social standing. These meetings do not always settle disputes once and for all, but the very participation of the disputants overcomes a degree of antagonism and displays a willingness to come to some meeting of minds.

A Fijian Indian community offers yet another contrast. According to Donald Brenneis, it is not common in this culture for outsiders to get involved in settling disputes. But there are times when disputes arise among men that others feel are serious enough to require intervention. A committee is formed that interviews disputants and witnesses beforehand, in order to compare accounts and to formulate questions to ask at the formal proceeding, called a *panacayat*. Like *nemawashi*, the Japanese custom of consulting individuals in private prior to a meeting, this seems a much better way of gathering information than forcing people to speak in a high-pressure public event. Typically, one party is not blamed; instead it is shown that both parties are guilty of minor errors and no one is seriously at fault. A common comment on

the process is “There were two wrongs and now it is right,” an interesting variation on our “Two wrongs don’t make a right.”

All these examples show that the intervention of others can be effective in settling disputes, especially when the intervention is part of culturally ritualized proceedings.

Cockfighting in Bali

Just as rituals for settling disputes are invaluable cultural resources, so the benefits of ritual fighting—as compared to the real thing—stand out in relief when viewed against the backdrop of an unfamiliar culture. Seeing the elaboration of these rituals in different forms helps us understand the role that ritual oppositions can play: not only to reinforce, display, achieve, and challenge status, but also to reinforce social bonds and alliances and as a safety valve for the expression of opposition.

The island of Bali is now part of Indonesia, and the Indonesian government (like the Dutch colonists before it) has outlawed cockfighting because it regards it as unbecoming and embarrassing. But Clifford Geertz and his anthropologist wife, Hildred, were not long in the Balinese village they had chosen to study before they found themselves in the midst of a large cockfight organized by the village chief in the public square—an event that was summarily broken up by a surprise police raid. After extensive fieldwork in the village, Geertz learned that participating in cockfights is inextricably interwoven with the Balinese social fabric.

Men (this is one of the few areas of Balinese culture that is limited to men) raise cocks, which they lovingly tend and periodically pit against others’ cocks in the public arena of the cockfight. (The Balinese word for “cock” has the same double meaning that the English word has.) At the cockfight, people bet in complicated and formally structured ways. But the betting is not simply a matter of trying to pick the winner for financial gain, as it is for Americans gambling at a race track. On Bali, betting on cocks is a way of reinforcing or challenging status hierarchies and kinship alliances in the village. (Once again, what in the United States is a matter of individual choice and consequence, in other cultures is inseparable from a complex social network.)

People are expected to bet on the cocks of their kin against the cocks of their enemies. But if a cockfight is held in a different village, everyone is expected to bet on the cock from his own village—and this is one way that solidarity can be created among former enemies. If feuding families patch up their differences, betting on each other's cocks is a way of formally demonstrating their rapprochement. And refusal to take part in this enterprise is not the mark of a prudent and refined citizen. Far from it; it is taken as a show of arrogance, evidence that a man thinks himself too good for the likes of his covillagers. In other words, betting on a cock is a requisite public display of support for and alliance with the man whose cock you bet on.

The Balinese cockfight does not reflect a highly agonistic society but just the opposite. Balinese obsessively avoid confrontational behavior in their everyday lives. And the cockfight is kept to highly cooperative rules. Geertz notes that he never heard anyone question the umpire's decision, either during a cockfight or after, although men certainly talked a lot about other aspects of the fights after they were over. How strikingly this contrasts with American sports events, at which players and spectators loudly deride the umpires, and commentators and conversationalists rehash their anger at what they saw as the wrong calls long after the event.

"Hold Me Coat!": Ritual Fighting in Ireland

Fights do not have to involve animals to be ritual. Fights between humans can also be ritual—not only in a boxing or wrestling ring but on the streets of a neighborhood or on the small, isolated Gaelic-speaking island of Tory in Ireland, as described by Robin Fox. Whereas the Balinese allow cocks to fight in their place, the Tory islanders fight each other—but their fights are no less ritualized. Living on Tory Island, Fox observed that fights among men were frequent, yet it was rare for anyone to get hurt. Although they seemed at first to break out at random, Fox figured out that the fights erupted when certain circumstances prevailed and that they followed certain rules—not rules in the sense that the players could recount them but rules in the sense that an anthropologist could discern them. And on Tory Island, as on the island of Bali, the fights were a way of displaying and negotiating kinship alliances and feuds.

Fights broke out only when there was a critical mass of onlookers, some of whom were kin of each individual involved in the fight and some of whom were kin to both (not difficult, I surmise, on an island of three hundred inhabitants.) Under these circumstances, one man could loudly curse and threaten another, who could loudly curse and threaten back, and both could rely on their kin to restrain them, preventing them from hurting each other.

Everything about the fight was structured so that the two men could seem eager to exchange blows without ever landing one. This paradox is embodied in a gesture that Fox describes: a man who threatens to hit another makes a display of taking off his coat, as he announces to his supporters, "Hold me coat!" On the surface, this is a prelude to physical assault. But in reality, a man would get only as far as pulling his jacket off his back and down his arms, stopping at a point where his half-removed jacket effectively pinned his arms behind him. At that moment, the very gesture that symbolically announced his intention to fight immobilized his arms. His supporters would take it from there, struggling with him to push his jacket back on as they admonished him to keep his cool.

The fights would end when the mother of one combatant (or another female relative if a mother could not be found) was brought into the fray, and the audience parted to make room for her. She would implore the fighter to come home and stop fighting. This gave the man the pretext to end the fight on the grounds that he could not deny his mother, who, he could aver, had saved his opponent from certain damage. As one fighter put it, "I'd have had yer blood if me mother hadn't come. Ye can thank her that you're not in pieces on the road, ye scum."

Since blows were never actually exchanged, one might well question whether what happened was really a fight. But Tory Islanders do not doubt that that's what it was. Indeed, as one such incident ended, a man turned to Fox and said, "Well, and wasn't that the great fight, for sure?"

An outsider might ask, "If no one is ever hurt and blows are not actually exchanged, why bother?" Fox explains that, first, these fights were a form of entertainment, providing excitement for both participants and onlookers. Second, they became fodder for talk: towns-

people would discuss the details long after, and in the talking, the fight took on more violence and drama. Fights also provided a means for the participants to display their masculine prowess. The men who had taken part in a fight were regarded with increased respect for a time after, and they comported themselves with a bit more swagger and verbal aggression. Furthermore, they provided role models for boys. This comes clear in Fox's description of how the children behaved during these fights. Whereas "Most of the little girls stood some way off with their mothers, who had banded together to deplore the episode—quietly," the boys responded quite differently.

[A]ll around milled little boys imitating their elders, cursing, fluffing, swaggering, threatening. It was particularly fascinating to see how the children learned the whole sequence of behavior. Anything that the men did, they would imitate, shouting the same things, strutting and swaggering.

Reading this I recalled my own amusement, when I lived in Greece, at seeing little boys arguing with each other and adopting the same hand gestures, facial expressions, and ritualized imprecations that I had seen so often used by adult Greek men when they argued.

When the conditions for ritual fighting break down, an altercation can turn into the real thing, and people can be hurt. According to Fox, there were situations in which Tory Islanders became involved in literal fights and were badly hurt. This happened when they were in London bars, where the network of kin was not available to intervene.

Lessons for America?

Neither the use of intermediaries nor ritual fighting provides a prescription for curing the ills of America's "argument culture." They do show, though, that aggression, conflict, and opposition can be used creatively to accomplish a wide range of human goals, including building solidarity in relationships.

In some cases we do not have enough agonism—that is, not enough *ritual* means of displaying opposition, not enough routinized and culturally controlled ways to manage and contain inevitable conflict. In fact, the dangers of our culture lie not in the open expression of opposition, but in an *overapplication* of agonism: using opposition as a required and ubiquitous way to approach issues, rather than

as one of many possible ways of getting things done by talk. The examples of other cultures suggest possibilities we might not otherwise consider—although we will have to cure the problems of our own body politic in ways that are consonant with our own cultural heritage. Glimpsing through the corners of our eyes how other cultures handle conflict and opposition, we can proceed with our eyes focused on that goal.

Developing Civil Society: Can the Workplace Replace Bowling?

Alan Wolfe

Treatments of suburban life in the 1950s featured a sharp contrast between the world of work and the world of community. The former, populated by men, emphasized hierarchy, obedience, material rewards, and formal procedures, while the latter, dominated by women, was characterized by voluntarism, friendships, talk, leisure, and—at least in the account of feminist social critic Betty Friedan—great unhappiness. Now that the proverbial commuter railroad platform is crowded not only with men but with women, and now that the trains run earlier in the morning and later in the evening to accommodate the frenetic work schedules of a more competitive capitalism, the ties of trust and mutual dependence upon which communities rely have been as radically transformed as company loyalties and employer-employee relations.

In my recent book, *One Nation After All*, I report on interviews with 200 Americans around the country. The interviews dealt with moral matters that are at the heart of contemporary concerns. As they talked to us about their perceptions of their suburban communities, middle-class Americans painted portraits of their community ties that give strong support to the idea that America is depleting its “social capital.” Here is a sprinkling of their comments:

“It’s almost as if we set up our own islands. It’s a street full of islands. And, you know, we would love to have a great relationship and great neighbors and that sort of thing, but it has just never evolved.”

“We don’t know who those people are or how they spend their time. We pass them on the street. We talk across the fence, but socially we don’t do things with our neighbors to speak of.”

“People are a lot more isolated.”

“I’ve been living eight years over here and I still don’t know my neighbor.”

“There’s absolutely no sense of community here whatsoever. I’ve never found it anywhere.”

“Strangely enough, I am unbelievably and sadly disconnected from the community that I live in. Do I identify with Brookline? I do not.”

“The way the suburbs are built today, I don’t think there’s a sense of backyard barbecue communities.”

From comments such as these, America’s suburban communities do seem to be chilly places. Devoid of people during the day, they are filled with people sitting behind television or computer screens in the evenings, too self-preoccupied to live a Tocquevillian life of civic engagement.

Nor is it difficult for the middle-class Americans to find a cause for the lack of community they feel: everyone is working too hard. “People just have less time,” said Rachel Benjamin, a Brookline, Massachusetts dentist. “When you look at the number of hours people spend at work now, the whole issue of living in the suburbs has cut time off people’s days. Having dual career families cuts time out of the day.” Asked why in his opinion communities seem less active, Derek Langer of Cobb County, Georgia said, “I think the big companies transplanting people have something to do with that.... A lot of executives are moved around the country. [People] were transferred every two years, no matter what. When two years came around, time to go somewhere else.” If there has been an eclipse of community, the cause is the workplace. So great have become the demands of the job that the obligations of the neighborhood have had to give way.

Even among more traditional families in which women remain at home during the day, a deep feeling exists that life has simply become too busy to accommodate a strong sense of community. Ashley George

of DeKalb County, Georgia, a homemaker, would like to interact more with her neighbors, but nobody, including herself, has the time. Cobb County's Judy Vogel remembers enough of her college sociology to offer us a short course in Durkheim's theory of anomie. Although she, too, is a homemaker, she feels special concern for her female neighbors who hold jobs: "There's nobody for backup. You're working. You're expected to work. Your child has an ear infection. There isn't a grandmother or an aunt or a cousin to call." That's why, according to her reading of the situation, "people are more isolated...you're into your big house with the door closed, and you're not out there with your neighbors." Suburban housewives find themselves facing demands on their time little different from the workaholic schedules of their husbands, and something has to give. Brookline's Alexander Onafri, who does work, wonders "how volunteer organizations in communities survive" these days now that so many women, who once staffed them, are in paying jobs.

Workplace to the Rescue?

In fact, though, membership figures show that Americans are still "joiners." Moreover, the organizations to which they belong still tend to be civic and religious rather than purely social. But by themselves, membership figures cannot answer the question of whether our respondents are less civically active than similar suburbanites a generation ago. Certainly, many of those with whom we spoke, by emphasizing how little sense of community participation they felt around them, were indicating support for the idea that some thinning out of American social life has taken place. Still, there is more to look at before we can conclude that America's social capital has been depleted to seriously low levels. Our figures suggest that work-related organizations are more common in American middle-class life than social and fraternal ones. To the degree that we look at the place in which people live for evidence of the decline of social capital, rather than where they work, we may be looking in the wrong place.

One of the sharpest criticisms made of Robert Putnam's "Bowling Alone" thesis is that it idealized a world dominated by men and left the impression that the decision of so many women to enter the workforce was responsible for the decline of civic involvement in the community. Putnam, in subsequent formulations of his thesis, responded by

suggesting that no verdict could be given to the question of whether working women were responsible for declining social capital. Our interviews suggest that because women are working, they are not quite as available for civic duties in their communities as they once were. But, at the same time, like men, they are more available to engage in civic activity at work. Jeremy Toole of Cobb County thinks that these days people get about 90 percent of their social connections from the workplace. Most of his friends come from the office, and he thinks his wife may be jealous of that fact. Then he pauses before adding that she, too, works and 90 percent of her friends come from her job.

For every middle-class American woman who may not be involved in a local organization, there are many more who are involved in their workplace settings. “I think people’s lives revolve around their work. They make their friends at work, they do their community service through work,” says Diana Hamilton of Sand Springs, Oklahoma. Elizabeth Tyler no longer feels part of Brookline because its liberal politics conflicts with her increasingly conservative sensibilities. But, she adds, “I feel very much like I belong to a community of work. I very much belong to a community with my own office, with my own company, within my own industry, and I am very much involved in community affairs in Cambridge, where my office is, and in Boston.”

Examples of work-based civic groups are everywhere. Groups like City Year and Read San Diego work with employers to find ways in which employees can take a day off work to become involved in tutoring inner-city children or cleaning vacant lots. Caroline Carlson of Brookline was “flabbergasted” from her City Year experience to learn what it was like to live in a neighborhood without parks, while Diane Sveressen just thinks there has to be somebody to offer reading opportunities to those who have too few of them.

The Hudson Institute’s John Clark has written that “although most discussions of civic engagement, eroding social capital, failing trust, and so on refer in passing to the workplace, no one examines closely the relationship between work and community.” While we did not observe people at work at the close level he recommends, we did find that workplace involvement has to be taken into account in any effort to portray the state of civic America.

The Office versus the PTA

Despite the fact that social and civic engagement continues to flourish in America, if often in places different from where people live, there is reason to question whether the quality of ties made at the workplace can be compared with those we generally associate with the local community. Different spheres of social life tend to be associated with different kinds of social relationships: family ties reflect a level of intimacy, and can promote a level of anger, that we would never expect of ties between members of a parent-teacher organization. Of all the various kinds of dependencies we develop with each other, economic ties have always been the most suspect from an ethical or moral point of view. Because we form such ties to promote the highly secular activities of getting and spending, friendships and connections developed at work generally are assumed to have an instrumental character: we use people, and they use us, to solicit more business, advance our careers, sell more products, or demonstrate our popularity.

Economic ties are therefore often dismissed as not quite real, authentic, or genuine enough. This is a point that can be traced to the great theorist of capitalism, Adam Smith. In *The Theory of Moral Sentiments*, Smith pointed out that the patron-client relationships associated with feudalism, because they were based on necessity, could not be equated with friendship, a relationship that should be premised on sympathy. Although the implication of Smith's point is that free-market relations will not be characterized by feudalistic necessity, a case could be made that modern capitalism requires that people give to their company, and to their coworkers, not only their physical labor, but their emotional labor as well. If so, it follows that even if the decline of civil ties in the neighborhood is being compensated by new ties formed at work, the instrumental character of the latter cannot be an adequate substitute for the loss of the former.

This may well be true: our middle-class respondents thought of the social ties they developed at work in very instrumental terms. Jane Kates of Sand Springs, who is now a homemaker, is extremely down-to-earth and practical in her thoughts about her social contacts. "I think it depends on probably where you spend most of your time," she said. "When I worked, my friendships were work-related. When I quit

working and started doing more schoolwork with the kids, my friendships became school-related.... I can see that as I progress through age here, that as I get into more volunteer things, that my friendships are formed around them.” Shortly after we talked with her, we talked with Toni Cartwright, an administrative assistant. “I think most people get most of their socializing out of their work experience, just because it’s a must situation. You have to go to work, and it’s the only place you have a group of people.” For these women, work is simply where they are, so, making the best of it, that is where they form their connections with others.

Brian Fischer, a regional sales vice president in Cobb County, was one of those who wondered whether such instrumental ties could ever be truly satisfactory. Asked where people form their most important social networks, he at first responded in a way typical of many with whom we spoke: “It used to be the family. And then to a lesser degree residential. But it has become business.” This trend bothers him. He told us:

It has become watered down, because we have two categories of friends. We have real friends that you share stuff with, that you care about and will help. And you have all the other people that are friends. They’re just people you know. We’ve kind of lost that... a real friend is someone that you bond with and you have a bond with two or three other people in the world.... We don’t have hundreds of friends. You have hundreds of acquaintances that you call friends.... People don’t connect over their lives anymore, people’s lives are so transient that you connect for times and places. Now the question is: Does that diminish the relationship because it’s on a temporary basis?

Mr. Fischer has clearly answered his own question: something has gone out of the world because so little is left in the world to make the kinds of truly meaningful ties that give life its depth and meaning.

One way to interpret Mr. Fischer’s comments is to suggest that the literature dealing with civic decline has tracked something important, but not necessarily in the right way: it is not the overall decline in group membership that is crucial—for, when added up properly, there may not be that much of a decline—but a change in the qualitative nature of those ties that matters. Active engagement in social and civic life is important, not as an end in itself, but because it expresses an altruistic

desire to do something for others. If, instead, people are joining groups to do something for themselves—to win friends and influence people—then society could experience a *rise* in organization memberships and still be facing a situation of depleting social capital. Only a handful of our respondents, it turns out, indicated any particular attachment to self-help, twelve-step recovery groups, often pictured as exemplifying an obsession with the self. Still, the fact that, in spite of their organizational activities, so many of them believe that selfishness in America has increased suggests that, in their view of the world, the quality of the social ties they experience are not as rich as they ought to be. On the other hand, these are optimistic people who believe that whatever problems exist, a solution will be found.

It Really Is Better to Give

According to an article in the journal Heart, giving blood actually reduces the rate of heart disease by 30 percent among men. According to David Meyers, a professor at Kansas University Medical Center, high levels of iron in the blood can cause cholesterol to clog arteries, and giving blood reduces the level of iron. Giving blood does not have the same beneficial effect for women because, according to Meyers, menstruating women are, in effect, already giving blood.

A Case for Individualism: From Des Moines to Durkheim

David R. Karp

The Mississippi River flooded from St. Cloud, Minnesota to St. James, Louisiana in the stormy summer of 1993. In Des Moines, Iowa, flood waters of the tributary Raccoon River merged with the potable water supply, and faucets ran with unfiltered, undrinkable brown water. The city closed the water mains, and the pipes ran dry. Ironically, citizens who had to paddle from home to home were faced with a drought. Days passed as tanker trucks delivered clean water to long lines of mud-caked folks holding plastic jugs. As the flood plains began to dry, municipal workers set to work restoring the clean water supply. When they reopened the main valves, fresh water slowly trickled throughout the waterworks.

Just when the worst of the disaster seemed to be over, water supply officials realized the town was suddenly faced with a social dilemma. Although clean water was now available, if people turned on their taps before the entire system was filled, the pressure would not build sufficiently to restore critical municipal services (such as fire-fighting capacities). Thus after withstanding the worst flooding in this century, people were asked to sacrifice yet a little more for the sake of the community.

While no single individual could diminish the water supply enough to reduce pressure, the additive effects of many turning on their taps at once could reduce it measurably. All hoped that others would restrain themselves, while each longed for a shower. Rather quickly, the self-interest of some overwhelmed the collective interest. A newspaper headline soon followed: "Flood Victims Riled as Cheat-

ers Tap Into Water System Too Soon.” The story reported that “at first, officials thought they could dissuade citizens—who have been without water for 10 days—by appealing to their altruism.” This appeal seemed to work for most, but too many were not intrinsically motivated to cooperate. The water pressure dropped.

In response, the city invited residents to inform on any neighbor seen using the municipal water, threatening to publicly announce the names of those who were turned in. Hundreds responded in this attempt at community shaming. The sanctioning here was normative; cooperation was expected to increase because potential cheaters would not be willing to risk social humiliation. Still, though, the water pressure was not returning quickly enough.

Ultimately, the government turned to directly monitoring water use. Those caught sneaking water had their water valves shut off at the street. Rather than rely on individual compliance or community pressure, the government assumed responsibility for water use.

Clearly, the three deterrent strategies attempted in this example (moral appeals, normative sanctions, state control) differed in cost and intent. Moral appeals were cheap, but they had no teeth, relying solely upon intrinsic motivation. In an individualistic society, how much can we rely on voluntary sacrifices to promote the common good? Normative sanctions required some additional coordination and cost (provision of a phone number, public announcements), but primarily distributed the costs across the community, making it a fairly cheap alternative. These sanctions had more teeth, but still required some social concern: individuals had to care about the social approval of the community to be deterred. Finally, state control had the strongest direct effect by eliminating cheaters’ access to water. Yet this solution was very costly. It was entirely up to the city to monitor water use, and to send crews to shut off the water mains of cheaters.

Freedom and Responsibility

The Des Moines officials were faced with the general problem of trying to reconcile individual freedom with social responsibility. Communitarians worry that if left to their own devices, many individuals would not contribute to the collective welfare of society

because in our individualistic society they have failed to develop the necessary moral and civic commitments. Instead, many would pursue only their own interests, hoping to free-ride on the contributions of others. The tragedy, of course, is that the failure to pay attention to collective goods leaves a society of self-interested individuals worse off than if they had been cooperative, for one cannot free-ride when the collective good is not provided.

More broadly, communitarians wonder whether individuals can be entrusted to make the sacrifices necessary to sustain a community, or what we often call civil society. To what extent do community members feel solidarity with one another? How much community pressure must be brought to bear on self-interested individuals to obtain their cooperation? Should we invoke the rule of law? Do we need a new cultural doctrine? Perhaps the central issue for communitarians is how to maintain individual freedom and still provide collective goods. Ideally, individuals will cooperate to overcome the numerous social dilemmas communities face each day: they will voluntarily restrain their water consumption, donate blood, pay the subscription when they listen to public radio, vote to support levies for education, join brigades to pick up litter, mentor at-risk youths, and so on.

These are not purely altruistic acts, for they improve the community of which the individual is a part. Each individual benefits from the provision of a collective good (from restored water, a well-stocked blood bank, good schools, etc.). Thus contribution is not an act of sacrifice from one to another; it is an act of collective cooperation. To provide collective goods voluntarily, we do not need a society of altruists (fortunately!), but we do need a society of cooperators—individuals who are willing to work to provide a good that all can enjoy, but none alone can produce.

To increase cooperation, two obstacles must be overcome. First, individuals must choose to defer immediate gains in favor of long-term benefits. Social conservatives like to emphasize the need for impulse control in order to delay gratification. Good character in the Des Moines flooding example is indicated by the willingness to forego that shower for another day. Thus it is necessary to be able to envision

the long-term benefits of voluntaristic contributions and let that vision serve to restrain immediate temptations.

The second obstacle individuals must overcome is the free-rider problem; individuals must value more highly the collective good (a functional water supply) than the individual good obtained by free-riding on the cooperation of others (that shower). Again, individuals need not become altruists, sacrificing themselves for the benefit of others. They merely, though not inconsequentially, need to recognize their share in the collective good and be willing to cooperate in order to achieve a win/win outcome. Though it need not be purely altruistic, their motivation must indeed be moral, for community members must be able to transcend their individual interests.

The Critique of Individualism

Can people in a society in which the individual takes priority overcome their tendencies toward immediate and self-interested gains? Tocqueville worried that individualism was pernicious in its effect on civic virtues. He wrote in *Democracy in America*,

Individualism is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellow creatures; and to draw apart with his family and his friends, so that, after he has thus formed a little circle of his own, he willingly leaves society at large to itself. Egotism originates in blind instinct: individualism proceeds from erroneous judgment more than from depraved feelings; it originates as much in the deficiencies of the mind as in the perversity of the heart. Egotism blights the germ of all virtue: individualism, at first, only saps the virtues of public life; but in the long run it attacks and destroys all others, and is at length absorbed in downright egotism.

Egotism is not the only problem individualism can engender. Often, even those who exhibit concern for the welfare of others are constrained by a narrow focus on individuals that undermines our capacity to envision collective consequences. The Des Moines citizen rhetorically wonders, "What harm could there be in simply taking a shower?" Another example: I frequently ask my students to read a media account of a hospital's decision to perform an expensive operation separating Siamese twins. According to the article, the chance of

survival of one twin was zero (they shared a lung). The other was predicted to have a two percent chance of survival. The article also discusses the possibility of not performing the operation (both twins would die) and spending the money on a vaccination program for children in the community. Based on probabilities, the vaccinations would save hundreds of lives for the same price. I ask my students whether the money (presuming it to be finite, which it surely is) should be spent on the operation or the vaccinations. Routinely, a majority of them vote for the operation. The twins, they argue, are at risk; how could we turn our backs? They do not see that the choice necessarily means turning our backs on those who would die because they were not vaccinated. Nor do they consider that those hundreds will be faced with the same costly medical care in the attempts to save them when their illnesses become acute.

The point here is not to establish a proper moral position, but to illustrate how we routinely fail to consider collective consequences because they are always matters of probability and abstraction. The twins were real; the vaccination program was attached to no human faces, only to an epidemiological statistic. The decision is constrained by the individualistic context within which the problem is defined. Individualism provides neither the cognitive map nor the moral compass to orient individuals toward the common good.

Do we then require a new cultural doctrine? Collectivistic societies like Taiwan or Singapore, in contrast to individualistic societies, prioritize social harmony and the common good while moderating the pursuit of self-interest. Does the solution lie in collectivism? While such a move might at first seem tempting, one must also consider some of the other features of collectivism: restrictive conformity and rigid boundaries between ingroups and outgroups. The Amish, after all, are not known for having fluid mobility between their own society and the larger society around them. And in Japan, as the saying goes, “the nail that sticks up is hammered down.” Again we are confronted with the dilemma of protecting individual freedom while providing collective goods. Must we choose between the two, tolerating “tragedies of the commons” in order to protect freedom or, alternatively, “sacrificing individuals at the altar of the public good?”

Dilemma: Balancing Individualism and Solidarity

Emile Durkheim suggested that we need not choose between freedom and the common good, nor do we need to compromise. It is possible, he wrote, both to fully embrace individual freedom and to promote the common good. But before we turn to the solution he proposed, it will first be helpful to examine a similar argument that Durkheim *rejected*, and to briefly examine the communitarian framework within which Durkheim worked.

Classical liberals essentially deny that the individual-freedom/common-good dilemma exists. They claim that the collective goods flow naturally, if accidentally, from the pursuit of self-interest. Durkheim rejected this assertion. (In the Des Moines example, it is clear that Durkheim was right.) Durkheim's 1914 essay, "The Dualism of Human Nature and Its Social Conditions," speaks to the inevitable conflict between the individual and society:

Society has its own nature, and consequently, its requirements are quite different from those of our nature as individuals: the interests of the whole are not necessarily those of the part. Therefore, society cannot be formed or maintained without our being required to make perpetual and costly sacrifices. Because society surpasses us, it obliges us to surpass ourselves; and to surpass itself, a being must, to some degree, depart from its nature—a departure that does not take place without causing more or less painful tensions.

Acknowledging this tension, Durkheim was equally concerned about capitulation to the extremes of either individualism or collectivism. According to Durkheim, excessive collectivism leads to the suppression of rights. His activism during the Dreyfus Affair, in which he vigorously protested the arbitrary repressiveness of the French state toward the progressive Dreyfus, establishes his liberal credentials. At the other extreme, excessive individualism was described by Durkheim as fundamentally and reprehensibly egoistic. Modern society has promoted egoistic individualism, he argued, by implicitly forcing individuals to dissociate from traditional religion, institutional ethics, and other long-standing practices and beliefs. Thus, because of his concern with the need to balance individual liberties and social responsibilities, Durkheim may be considered an early communitarian.

Another communitarian feature of Durkheim is the primacy he gave to “social facts,” which refer to those features of the social landscape that exist independently of particular individuals. Various social institutions, laws, norms, and values persist even as the members of a community change. Although particular individuals may choose not to marry or to divorce, marriage as an institution persists (and has cultural bearing and influence even on singles and divorcees). Durkheim believed that a society cannot be understood without paying close attention to these social facts. He did not believe that individuals are completely autonomous, free to make decisions without regard to the context within which those decisions are defined. Individualism, for example, partially determined how my students viewed the surgery decision. Their compassion was constrained by immediacy and individual context, but could not extend to the looming human consequences of inefficient or unjust distributions of scarce resources.

As a communitarian, Durkheim was deeply concerned with the forces that bind individuals together in solidarity, the forces that would make voluntary cooperation amenable to the Des Moines citizens. What is most problematic to solidarity in a complex, modern society is, according to Durkheim, the increasing division of labor. In a simpler society in which social roles are few in number, solidarity can be achieved by an implicit shared purpose and doing similar things together. In such a society, we cooperate to provide collective goods because we so easily identify our interests with those of similar, almost interchangeable, others.

But as social roles become more varied, the differentiation of individuals and their experiences diminishes their solidarity. It becomes increasingly difficult to relate to the role of another when the other’s everyday existence is so different from one’s own as to be unimaginable. It becomes hard to believe that others will share one’s values or aspirations. Why should the tax attorney cooperate with the taxidermist? Why would he trust that she will not free-ride on the Des Moines water supply? As a result of this social differentiation, individualism waxes and solidarity wanes.

Solution: Seeing the Universal in the Individual

The answer to the puzzle for Durkheim lies within the very puzzle itself. If modernity maximizes individual differences, then the common experience of individuality can bring us together. In his essay “Individualism and the Intellectuals,” Durkheim wrote:

As a result of a more developed division of labor, each mind finds itself oriented to a different point on the horizon, reflecting a different aspect of the world, and consequently the contents of consciousness differ from one person to another. Thus, we make our way, little by little, toward a state, nearly achieved as of now, where the members of a single social group will have nothing in common among themselves except their humanity, except the constitutive attributes of the human person in general. This idea of the human person, given different nuances according to the diversity of national temperaments, is therefore the only idea which would be retained, unalterable and impersonal, above the changing torrent of individual opinions.... Consequently, nothing remains which men can love and honor in common if not man himself. That is how man has become a god for man and why he can no longer create other gods without lying to himself. And since each of us incarnates something of humanity, each individual consciousness contains something divine and thus finds itself marked with a character which renders it sacred and inviolable to others. Therein lies all individualism; and that is what makes it a necessary doctrine.

For Durkheim, as we become increasingly unique as individuals, we must become increasingly aware of the priceless nature of individual awareness. Individualism is not what divides us, but is the only remaining doctrine that can bind us together for cooperative purposes. There is great irony in identifying that which has been criticized for driving us apart as the linchpin of our solidarity. Of course, Durkheim’s revision of individualism refers to more than egoism, and he was aware of this. “Without doubt, it can happen that individualism is practiced in a completely different spirit. Some use it for their personal ends, as a means of disguising their egoism and of more easily escaping their duties to society.”

Thus, Durkheim was referring to something other than selfishness in his moral vision of individualism. He was referring to the ideal of the individual that is at the center of liberalism: that the individual is

sacred and must be protected, usually through the mechanism of rights. Durkheim believed this deep respect for the individual is vitally linked to sympathy (that favorite sentiment of the Scottish moralists), which is an affective bridge between oneself and the welfare of others.

Now, the only thing necessary for a society to be coherent is that its members have their eyes fixed on the same goal, concur in the same faith. But it is in no way necessary that the object of this common faith be unrelated to individual natures. After all, individualism thus extended is the glorification not of the self but of the individual in general. It springs not from egoism but from sympathy for all that is human, a broader pity for all sufferings, for all human miseries, a more ardent need to combat them and mitigate them, a greater thirst for justice. Is there not herein what is needed to place all men of good will in communion?

By acknowledging the dignity of all community members, the Des Moines citizen accords each the right not to cooperate, but this is coupled with the belief that one should because each citizen is expected to take seriously the needs and interests of others. Certainly Durkheim was promoting an idealized version of individualism; an ideal that even he recognized is often unrealized. He agreed that individualism can lead, as Tocqueville argued, to egoism. But Durkheim did not consider individualism an ideal or value that individuals can adopt at will, selectively choosing its positive or negative traits. Rather, he viewed individualism as a “collective representation,” a nonmaterial social fact that transcends individuals and structures their social belief system. Its influence is comprehensive, if potentially contradictory in its effects. To grasp its underlying positive effect, individualism cannot be properly understood through the narrow lens of individualism itself—which points only to autonomy and isolation—but must be understood in communitarian terms.

Durkheim implied that we cannot find solidarity in modern democratic society without individualism. Individualism and solidarity should not necessarily be constructed as opposites. In a complex division of labor, individuals are interdependent, each making a unique contribution to society. Their experiences, attitudes, and beliefs are influenced by their positions in the social order. In this way,

they are embedded and constrained. Yet the uniqueness of positions fosters autonomous self-identities. For Durkheim, the doctrine of individualism endorses the protection of individual rights while providing an ideology of respect for all individuals that transcends ingroup boundaries, creating solidarity amidst diversity. Although the Des Moines citizens may not know one another and may not be able to effectively imagine all of the attitudes, beliefs, and values of one another, they can still cooperate if they believe in the inherent worth of these anonymous others. This faith, grounded in the doctrine of individualism, is sufficient to motivate cooperation because they cannot justify exploiting these others for their own selfish gains.

Thus, in the end, Durkheim's communitarianism stems from his equal concerns for protecting freedom and providing collective goods. Neither is sufficient alone, yet there is clearly tension between them. Durkheim's reconciliation requires a full embrace of his concept of the individual; an optimistic portrait of the individual's moral promise. Because the modern individual is no longer subsumed by collective identities, it is necessary to find an alternative mechanism of solidarity. For Durkheim, the first step is the active protection of rights. This creed is the precondition for a sympathy that can transcend ingroup boundaries. Thus, Durkheim argued that individualism is not merely inevitable, but necessary for communitarian self-transcendence.

Durkheim's account provides an explanation for why so many did not free-ride in Des Moines. After all, in an individualistic society, it is all too easy to rationalize noncooperation (What harm could one shower cause? I'm sure others will take showers, too. I *deserve* this shower after all the hardship *I* have suffered. No one will notice. No one will care—and so on). And our easy rationalizations undermine the social compact that ensures freedom, but expects responsible action. But the fact that most of the citizens of Des Moines were "riled" by the cheaters speaks poignantly to their own voluntary commitment. The citizens who contributed to the collective good did so because of their commitment to individual freedom and their belief that, when pressed, most individuals will consider the welfare of others (even unknown and quite different others) and act accordingly.

Necessary, But Sufficient?

Is Durkheim's doctrine of individualism enough? So far Durkheim counters Tocqueville's argument that individualism necessarily "saps the virtues of public life." But can individualism also provide the moral framework within which communitarian decision making can occur? Here, it appears that the doctrine of individualism falls short. While it may successfully invoke the dignity and rights of the individual in its efforts to spur collective action, it tends to limit the focus to individuals, forgetting collective outcomes. There is no simple solution when future collective goods are an abstraction (such as a water supply reducing fire risk or vaccinations reducing future disease) and immediate individual costs are personal and concrete (such as an empty five gallon jug or foregoing a critical operation)—even when the collective good is clearly desirable to all concerned. Although most people restrained their water consumption in Des Moines, enough people did not so that the restoration of services was seriously impaired.

Although Durkheim argued that individualism is vital for modern solidarity, its atomizing tendencies do tend to undermine the provision of collective goods. Durkheim was only able to hint at a solution to this problem. In *Moral Education*, he argued that respect for the individual, sympathy for others, cooperative values, and collective action that entails the sublimation of immediate self-interest must all be consciously taught.

There is a whole cluster of mental attitudes that the school should help the child to acquire, not because they are in the interest of this or that regime, but because they are sound and will have the most fortunate influence on the general welfare.... The capacity for containing our inclinations, for restraining ourselves—the ability that we acquire in the school of moral discipline—is the indispensable condition of the emergence of reflective, individual will. The rule, because it teaches us to restrain and master ourselves, is a means of emancipation and of freedom.... Discipline is thus useful, not only in the interests of society and as the indispensable means without which regular cooperation would be impossible, but for the welfare of the individual himself.

We must be explicitly taught to consider collective consequences because individualism implicitly narrows the scope of our concerns.

Moreover, this moral education enables individuals to become cooperative free agents by teaching self-mastery. Like Rousseau, Durkheim argued that true liberty is found by fulfilling communitarian commitments, not by shirking responsibilities. His most innovative contribution is the insight that individualism must remain central to the communitarian perspective in spite of its atomizing tendency and precisely because embracing the concept of the individual can create solidarity in a disparate society.

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THE COMMUNITY BOOKSHELF

The Individual and the Community in Early America

Daniel Walker Howe

Barry Shain, *The Myth of American Individualism: The Protestant Origins of American Thought* (Princeton, New Jersey: Princeton University Press). 416 pp.

Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton, New Jersey: Princeton University Press). 397 pp.

J. David Greenstone, *The Lincoln Persuasion: Remaking American Liberalism* (Princeton, New Jersey: Princeton University Press). 352 pp.

For a long time it seemed indisputable that America was a nation whose constitution and politics were based on the belief that government exists in order to protect the rights of individuals. In recent years, however, a number of historians have undertaken to challenge this conventional wisdom. They have argued that the founders of the American republic were less interested in the rights of individuals than we had supposed, and more concerned with the welfare of the community. Their conclusions, although varying, run something like this: Early Americans were by no means unanimously and simply dedicated to an individualistic philosophy of natural rights. Instead, they were in touch with a multiplicity of political ideas, including some that were strongly communitarian in nature.

As a result of these scholarly labors, we now realize that the set of political theories with which America began was diverse and complicated. Alongside the philosophy of natural rights for which John Locke and Thomas Jefferson are famous, historians of the new school have placed a variety of other political philosophies. Included among these are the corporate ideal of balanced government inherited from the ancient world, medieval peasant or artisan notions of a “moral economy,” the communal ideals of Protestant sectarians, Renaissance humanist ideals of patriotic virtue, and the moral philosophy of the Scottish Enlightenment.

But why should we care about these issues? Why have so many intelligent people researched them with such diligence, pondered them so deeply, and now argue about them with such vehemence? Actually, what is at stake here is not just some arcane or antiquarian matter, but the intellectual legitimacy of present-day American institutions and life. To learn about other political philosophies is to realize that the one under which we live is not the only possible one. This realization is all the more vivid if it can be shown that alternative philosophies are not alien, but were actually believed, followed, and implemented in America. History can be used as a political weapon and a moral example. Three books provide an opportunity to show how early American political thought can be made to speak to current concerns: Barry Shain’s *The Myth of American Individualism*, Michael Zuckert’s *Natural Rights and the New Republicanism*, and David Greenstone’s *The Lincoln Persuasion: Remaking American Liberalism*.

Religion and Community

In *The Myth of American Individualism*, Shain makes no bones about his political purposes. He writes, he explains, to address contemporary needs, to identify a political philosophy both “democratic and communal,” one that “meets the needs of America’s more progressive citizens” (p. xviii). Himself a political scientist, Shain undertakes to collect and summarize the work of a generation of historians of early America in such a form that their conclusions can be absorbed and used by his fellow students of American politics. Shain plays the role of an academic mediator, a Marco Polo who has visited another scholarly world and returns to tell what he has found and what it implies for his own world.

As a title, *The Myth of American Individualism* is deliberately provocative, and possibly misleading. Shain does not claim that American individualism is actually a myth and does not really exist; indeed he worries that there is too much individualism in America today. What he argues is that the individualism of present-day America is supported by the myth that no other political philosophy but that of individual natural rights has ever prevailed in America, and this myth he sets out to shatter. American society was not originally individualistic, he argues, but only became so after the Revolution.

The shared value system that antedated the natural rights philosophy of Lockean liberalism in America is, Shain informs us, Protestant Christianity. The form of Christianity that most interests him is Reformed (that is, Calvinist) in theology and sectarian in organization. It was transplanted to the Atlantic coast of North America by various groups, most of them religious dissenters from European state churches. These included English Puritans and Quakers, French Huguenots, Scottish and Scots-Irish Presbyterians, Dutch Reformed, and German pietists.

What interests Shain about these people is not what they themselves valued most highly—their personal spiritual relationship with the risen Christ—but that their way of life constituted a form of democratic communalism. They bore collective witness to their faith in defiance of temporal authorities and despite frequent hardship. They were people who restrained their emotional and hedonistic impulses, which he also approves. They maintained “watch and ward” over each other to preserve their community discipline, guarding each other against the opportunity to sin, and rendering mutual aid and comfort.

Shain has rendered a valuable service in calling attention to the power of Protestant Christianity in early American political culture. In many ways his emphasis on the importance of the small community—the church and the town alike, although he does not distinguish them—is well placed. To understand the power of these local communities and their ministerial spokesmen helps us understand many things: for example, how the American Revolution mobilized so much popular enthusiasm in New England, as well as why it commanded less widespread active support in parts of the country where local

community ties were more attenuated. In a more general sense, Shain's book also helps us appreciate the constructive role of self-discipline in early American personality development and social life.

For all its virtues, however, Shain's work suffers from his polemical purpose, which narrows his vision. He writes about individualism and communalism as if they were mutually exclusive. Actually, he knows better: he points out that the early Americans he studies "did not demand that one discriminate in a zero-sum fashion between the true good of the individual and that of the public" (p. 43). Yet, even if *they* did not treat individualism and communalism as alternatives, *he* conceives his thesis as if it were so. If Protestantism was important, he argues, individualism must not have been. Shain virtually equates Protestant Christianity with communalism, because that is the only aspect of it with which he concerns himself. What he recommends to us in the end is not Christianity itself, only its support for community values.

But Christianity, even within the Reformed tradition alone, is too broad a tradition to be restricted to the polemical purposes of Barry Shain. In reality, Reformed Christianity nurtured not only communalism but also individualism in early America. Reformed Christians rejected those aspects of the Catholic faith that had justified priestly prerogatives: the sacrament of penance and absolution; the authority of the pope and his cardinals; and the right of the church to interpret and supplement Scripture. In getting rid of this overlay of clericalism, Protestantism empowered the common lay person to assume control over his or her destiny in the next world—and, by eventual implication, in this world as well. The name for this personal authority in Protestant theology was "the priesthood of all believers." One of its important facets was the right of private judgment in the interpretation of Scripture. Contrary to Shain's interpretation, the radically democratic vision of Reformed Christianity embraced individualistic aspects as well as community responsibility.

In fact, rather than seeing Protestant religion as a collectivist obstacle to American individualism, it would be more accurate to see Protestantism as helping pave the way for individualism. The principal philosophy of individualism in America has been Lockean liberalism, as Shain acknowledges. (He prefers to speak of "individualism"

rather than “liberalism” simply because the latter term has come to mean so many different things.) Many colonial and revolutionary Americans had no difficulty at all being both good Protestants and Lockean liberals. John Locke typified the relationship between the two in his own biography: he was the son of an officer who served in the Parliamentary army during the English Puritan revolution; he allied himself politically with the Protestant religious dissenters; and was himself a member of the Low Church (i.e., Protestant) wing of the Church of England. Shain’s positing of Protestantism and individualism in opposition to each other is simply ahistorical.

Locke and Individualism

Michael Zuckert’s *Natural Rights and the New Republicanism* is an examination of the origins of the philosophy of liberalism, that is, individualism. Zuckert belongs to the group of scholars who feel that the search for collectivism in early American political thought has gone far enough, and now it is time to take another look at the liberalism of Locke. So Zuckert began his work intending to write a book about the intellectual basis for the founding of the American republic. As he traced the origins of his topic, however, what he ended up writing was a book on 17th- and 18th-century English intellectual history.

Zuckert analyzes the rationale for resistance to royal authority in early-modern England. He does so because that was the tradition in which the American revolutionaries were trained. (One might add that so long as the Americans were engaged in dialogue with British adversaries, they had to employ language that the other side in the debate would understand and had to appeal to principles the other side might acknowledge.) Within the Anglo-American tradition of opposition to the divine right of kings, Zuckert identifies three components: Protestantism, Whiggery, and Lockean liberalism. The political implications of Protestantism proved critically important in the Puritan Revolution of the 1640s. By subordinating the king’s will to God’s will (as revealed in scripture), Protestantism provided a lever for resisting royal authority. By contrast, Whig arguments were institutional, drawn from legal principles embodied in English constitutionalism and the great Dutch jurist Hugo Grotius; they were chiefly invoked in the justification for the Glorious Revolution of 1688.

Finally, Zuckert turns to his third version of opposition to royal prerogative, Lockean liberalism. Based on belief in natural rights, this was the principal rationale for the American Revolution in the 1770s. Zuckert calls the Lockean philosophy invoked by the Americans the “new” republicanism in order to distinguish it from earlier forms of “classical” republicanism endorsed by ancient, Renaissance, and 17th-century theorists. Like Shain, Zuckert believes that the role of classical republicanism in Anglo-American political thought has been much exaggerated by some recent historians.

After having carefully distinguished Locke’s philosophy from that of classical republicanism, Zuckert acknowledges that the two became mixed up again in the brilliant polemics of John Trenchard and Thomas Gordon, whose devastating critiques of corruption at court were published (with prudent anonymity) as *Cato’s Letters* in the 1720s. Within a structure of argument that was essentially Lockean, based on natural rights and government by consent, “Cato” also made use of certain favorite debating points of the classical republicans, such as the moral dangers of unrestrained avarice. Cato’s synthesis became the ideological and rhetorical basis for the American Revolution half a century later. In the end, the “new republicanism” of the Americans included both Lockean and classical elements, although the Lockean side was dominant.

Making Individualism Compatible with Community

As Cato’s synthesis suggests, Barry Shain’s concentration upon the polarities of individual and community creates a false sense of opposition. In the last analysis, what is crucial to the maintenance of civility in a free society is not the subordination of the individual to the community, but that individuality should be expressed in a responsible and disciplined manner. The old-fashioned distinction between liberty and license was not such a bad way of expressing this truth. Early Americans recognized this; they believed in liberalism but not in hedonism. When Thomas Jefferson declared that “the pursuit of happiness” was a natural right, he was not endorsing a life of self-indulgence but a life of self-fulfillment, through the education and profitable employment of one’s natural faculties.

Jefferson can be better understood by looking at the dominant psychological beliefs of his day. Early Americans subscribed to a model of the human personality in which two faculties of the mind were acknowledged as rational: conscience (often called the “moral sense”) and prudence (self-interest). All acknowledged that in a properly balanced character, these would be the number one and number two motives, respectively; they would control the actions of the individual, and to them the various “passions” (emotions and appetites) of human nature would be subordinated.

Unfortunately, as people realized, the strength of the faculties of the will varied *inversely* with their rank in the sequence of rightful precedence. Although conscience was rightfully supreme, it was notoriously the weakest of motives; the unreliable passions were the strongest, with prudence somewhere in between. The task of law, aided by religion, custom, and public opinion, was to strengthen the conscience within each individual. The virtuous individual was one who, employing such helps as society provided, developed a balanced character—that is, one in which each faculty was properly developed in relation to the others and in which one’s talents were developed to the fullest. The virtuous person accordingly engaged in both self-discipline and self-improvement—or, as they might alternatively be termed, self-control and self-development. This ideal of character development, prevalent not only in early America but also on the other side of the Atlantic, was readily harmonized with both Reformed Christianity and Lockean liberalism, as well as with classical republicanism.

Much of what Shain and Zuckert write about early American thought demonstrates the prevalence of this model of the human faculties and their proper development. “Americans believed that the passions of the self must be constrained within a social framework,” Shain rightly declares (p. 103). But the constraints on passion that early Americans recognized were not only social but also personal. The supremacy of reason over passion was even more important than the supremacy of society over self. Zuckert points out that in the liberal philosophy of Locke and “Cato,” individuals are treated as “able to give shape and form to their lives, able to suspend their desires and act on reason” (p. 317). The subordination of the bad self to the good self—of passion and impulse to reason and conscience—was a major theme

of political, social, and literary discourse in the 18th and 19th centuries. It was this intrapersonal subordination, not that of the individual to the community, which this discourse most often praised and demanded.

This model of the individual faculties and their proper relationship to each other influenced the teachings of Anglo-American *political* philosophy as well. *Cato's Letters* made the point as well as any number of Americans: "The world is governed by men, and men by their passions." While the purpose of all government is to restrain the passions of the subjects, the purpose of *constitutional* government is to restrain the passions of the rulers as well. The greatest exposition of the philosophy of the American Constitution, *The Federalist Papers*, explains the functioning of the proposed institutions in terms of maintaining the supremacy of reason over passion, of the wise and virtuous over the licentious.

Redefining Liberalism: Lincoln's Legacy

The recognition of the role of government in relation to the faculties of the individual brings us to the last of the three books I wish to discuss: David Greenstone's *The Lincoln Persuasion*. The late David Greenstone was, at the time of his premature death, writing a major reevaluation of the American political tradition. This book is the unfinished product that he left behind. Defying the recent interest in non-Lockean philosophies, Greenstone chose to return to a study of Lockean liberalism as the principal fount of American political thinking and institutions. Zuckert's book—along with others by such scholars as Thomas Pangle, Joyce Appleby, and J.R. Pole, who have also reaffirmed the enduring importance of Lockean liberal thought in America—may be taken as legitimating Greenstone's decision. What Greenstone discovered, however, was that liberalism itself branched into two versions in America, which he called "humanist liberalism" and "reform liberalism."

The two versions of liberal individualism derived from two different attitudes toward the process of self-discipline or self-development. Some American liberals have emphasized the right to self-development, and have accordingly stressed the importance of eliminating external constraints that inhibit individuals from pursuing

their own preferences. These Greenstone calls “humanist liberals.” Their goal he calls “negative liberty.” But other American liberals have emphasized the duty to self-development, and, accordingly, have stressed not simply the absence of constraints but the presence of positive helps and incentives to individuals to develop their potential. These Greenstone calls “reform liberals,” and their goal he calls “positive liberty.” Among the reform liberals have been those who worked to redeem people who needed help in shaping their own characters, such as alcoholics, criminals, and the insane, though reform liberalism is also concerned with helping perfectly normal people realize their potential.

Greenstone provides a set of essays treating various American political leaders who personify and illustrate his argument. As humanist liberals he offers Thomas Jefferson, Stephan A. Douglas, and Martin Van Buren; as reform liberals he offers John Quincy Adams, Frederick Douglass, and Daniel Webster. (Unfortunately not all of the illustrative essays actually got written before the author’s death.) His book takes its title from its climactic section, in which Greenstone shows how Abraham Lincoln remade American liberalism by synthesizing the two liberal ideals. As the emancipator of slaves Lincoln removed the most oppressive of all constraints on individual self-realization, a humanist liberal goal. Yet he also went beyond such a merely negative interpretation of liberty; he believed that people had a duty to pursue self-improvement, and he supported such reform liberal causes as public education and temperance in the interest of providing positive help in this undertaking. Lincoln’s devotion to promoting American economic development (by transportation projects and a protective tariff) can be seen as his way of fostering a diversified society in which people would have wider scope for the development of their various talents than agriculture alone could offer. Even in its truncated form, Greenstone’s book constitutes a profound exploration of the meaning of the American political tradition and its relation to the formation of individual character.

The Responsible Self

In the end, can any moral be drawn from the three books taken together? Despite their differences with each other, there is, perhaps, a message here for us. Such a lesson might run something like this: By

comparison with the earlier America we have been reading about, American society today is dangerously hedonistic and preoccupied with a kind of irresponsible individualism. American society needs to find some way to reassert the moral values on which the country was founded, to proclaim and defend them in family, church, and school, so as to inscribe them in individual personalities. People need to undertake self-discipline, to accept responsibility not only for their actions but for their characters, and undertake to reshape their characters as necessary, subordinating "passion" (what we would call short-term emotional gratification) to conscience and rationality. Whether we continue to subscribe to a national philosophy of natural rights, as Zuckert evidently believes we should, or trade it in for some form of communitarianism, as Shain hopes we will do, actually seems a matter of less immediate urgency. Whatever philosophy we embrace as a people should be one that makes adequate provision for the nurture and development of the moral self, for the full realization of the potential of each individual, as Greenstone reminds us that Abraham Lincoln taught.

Beyond the Cliché

It is one thing to know that it takes a village to raise a child, and another to know what it takes to raise a village.

Mary Ann Glendon

AN R.C. DOCUMENT

A Universal Declaration of Human Responsibilities

In 1989 a small group met in Cambridge, Massachusetts. It planned to form an American Civil Responsibilities Union—as a counter to the American Civil Liberties Union, the ACLU. I will take some credit for convincing the group that society would be better served if we did not create one more one-sided, adamant representative of one half of the needed equation. Our position should be that strong rights and strong responsibilities are corollaries; a well-ordered free society requires both. This meeting led eventually to the formation of the American Alliance for Rights and Responsibilities.

Shortly thereafter, this quarterly was founded. From its first issue it stressed that rights and responsibilities are two sides of the same coin. The same crucial point has been emphasized in the Responsive Communitarian Platform—the cornerstone of The Communitarian Network—which was widely endorsed in the United States and overseas. (For details, visit www.gwu.edu/~ccps or write The Communitarian Network at 2130 H Street NW, Suite 714, Washington, DC 20052.) The idea that strong rights presume strong responsibilities was further spelled out in The Spirit of Community and The New Golden Rule.

An analysis of numerous public dialogues that followed these developments shows that the thesis that rights and responsibilities complete one another has become very widely accepted. To cite but one example, in his 1995 State of the Union Address President Clinton acknowledged, and sought to correct, the one-sidedness of his own rhetoric: “I have proposed the Middle Class Bill of Rights—which should properly be called a Bill of Rights and

Responsibilities, because its provisions only benefit those who are working to educate and raise their children or to improve their own lives.”

More recently, a group of 24 former heads of state, following the leadership of the German philosopher Hans Küng, formulated “A Universal Declaration of Human Responsibilities.” The group, which calls itself the InterAction Council, aims to have this declaration endorsed by the United Nations, so that the current one-sided declaration of rights will be completed by this new document. The text of the declaration and the list of the heads of state follows.

Amitai Etzioni

UNIVERSAL DECLARATION OF HUMAN RESPONSIBILITIES (PROPOSED BY THE INTERACTION COUNCIL)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world and implies obligations or responsibilities,

whereas the exclusive insistence on rights can result in conflict, division, and endless dispute, and the neglect of human responsibilities can lead to lawlessness and chaos,

whereas the rule of law and the promotion of human rights depend on the readiness of men and women to act justly,

whereas global problems demand global solutions which can only be achieved through ideas, values, and norms respected by all cultures and societies,

whereas all people, to the best of their knowledge and ability, have a responsibility to foster a better social order, both at home and globally, a goal which cannot be achieved by laws, prescriptions, and conventions alone,

whereas human aspirations for progress and improvement can only be realized by agreed values and standards applying to all people and institutions at all times,

Now, therefore,

The General Assembly

proclaims this Universal Declaration of Human Responsibilities as a common standard for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall contribute to the advancement of communities and to the enlightenment of all their members. We, the peoples of the world, thus renew and reinforce commitments already proclaimed in the Universal Declaration of Human Rights: namely, the full acceptance of the dignity of all people; their inalienable freedom and equality, and their solidarity with one another. Awareness and acceptance of these responsibilities should be taught and promoted throughout the world.

Fundamental Principles for Humanity

Article 1

Every person, regardless of gender, ethnic origin, social status, political opinion, language, age, nationality, or religion, *has a responsibility to treat all people in a humane way.*

Article 2

No person should lend support to any form of inhumane behavior, but all people have a responsibility to strive for the dignity and self-esteem of all others.

Article 3

No person, no group or organization, no state, no army or police stands above good and evil; all are subject to ethical standards. Everyone has a responsibility to promote good and to avoid evil in all things.

Article 4

All people, endowed with reason and conscience, must accept a responsibility to each and all, to families and communities, to races,

nations, and religions in a spirit of solidarity: *What you do not wish to be done to yourself, do not do to others.*

Non-Violence and Respect for Life

Article 5

Every person has a responsibility to *respect life*. No one has the right to injure, to torture, or to kill another human person. This does not exclude the right of justified self-defense of individuals or communities.

Article 6

Disputes between states, groups, or individuals should be resolved without violence. No government should tolerate or participate in acts of genocide or terrorism, nor should it abuse women, children, or any other civilians as instruments of war. Every citizen and public official has a responsibility to act in a peaceful, non-violent way.

Article 7

Every person is infinitely precious and must be protected unconditionally. The animals and the natural environment also demand protection. All people have a responsibility to protect the air, water, and soil of the earth for the sake of present inhabitants and future generations.

Justice and Solidarity

Article 8

Every person has a responsibility to behave with *integrity, honesty, and fairness*. No person or group should rob or arbitrarily deprive any other person or group of their property.

Article 9

All people, given the necessary tools, have a responsibility to make serious efforts to overcome poverty, malnutrition, ignorance, and inequality. They should promote sustainable development all over the world in order to assure dignity, freedom, security, and justice for all people.

Article 10

All people have a responsibility to develop their talents through diligent endeavor; they should have equal access to education and to meaningful work. Everyone should lend support to the needy, the disadvantaged, the disabled, and to the victims of discrimination.

Article 11

All property and wealth must be used responsibly in accordance with justice and for the advancement of the human race. Economic and political power must not be handled as an instrument of domination, but in the service of economic justice and of the social order.

Truthfulness and Tolerance

Article 12

Every person has a responsibility to *speak and act truthfully*. No one, however high or mighty, should speak lies. The right to privacy and to personal and professional confidentiality is to be respected. No one is obliged to tell all the truth to everyone all the time.

Article 13

No politicians, public servants, business leaders, scientists, writers, or artists are exempt from general ethical standards, nor are physicians, lawyers, and other professionals who have special duties to clients. Professional and other codes of ethics should reflect the priority of general standards such as those of truthfulness and fairness.

Article 14

The freedom of the media to inform the public and to criticize institutions of society and governmental actions, which is essential for a just society, must be used with responsibility and discretion. Freedom of the media carries a special responsibility for accurate and truthful reporting. Sensational reporting that degrades the human person or dignity must at all times be avoided.

Article 15

While religious freedom must be guaranteed, the representatives of religions have a special responsibility to avoid expressions of prejudice and acts of discrimination toward those of different beliefs. They

should not incite or legitimize hatred, fanaticism, and religious wars, but should foster tolerance and mutual respect between all people.

Mutual Respect and Partnership

Article 16

All men and women have a responsibility to show respect to one another and understanding in their partnership. No one should subject another person to sexual exploitation or dependence. Rather, sexual partners should accept the responsibility of caring for each other's well-being.

Article 17

In all its cultural and religious varieties, marriage requires love, loyalty, and forgiveness and should aim at guaranteeing security and mutual support.

Article 18

Sensible family planning is the responsibility of every couple. The relationship between parents and children should reflect mutual love, respect, appreciation, and concern. No parents or other adults should exploit, abuse, or maltreat children.

Conclusion

Article 19

Nothing in this Declaration may be interpreted as implying for any state, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the responsibilities, rights, and freedom set forth in this Declaration and in the Universal Declaration of Human Rights of 1948.

Endorsement

The proposed Universal Declaration of Human Responsibilities has the endorsement of the following individuals:

Helmut Schmidt (Honorary Chairman), Former Chancellor of the Federal Republic of Germany

Malcolm Fraser (Chairman), Former Prime Minister of Australia

Andries A. M. van Agt, Former Prime Minister of the Netherlands

Anand Panyarachun, Former Prime Minister of Thailand
Oscar Arias Sanchez, Former President of Costa Rica
Lord Callaghan of Cardiff, Former Prime Minister of the United Kingdom
Jimmy Carter, Former President of the United States
Miguel de la Madrid Hurtado, Former President of Mexico
Kurt Furgler, Former President of Switzerland
Valery Giscard d'Estaing, Former President of France
Felipe Gonzalez Marquez, Former Prime Minister of Spain
Kenneth Kaunda, Former President of Zambia
Lee Kuan Yew, Former Prime Minister of Singapore
Kiichi Miyazawa, Former Prime Minister of Japan
Misael Pastrana Borrero, Former President of Colombia (deceased in August)
Shimon Peres, Former Prime Minister of Israel
Maria de Lourdes Pintasilgo, Former Prime Minister of Portugal
Jose Sarney, Former President of Brazil
Shin Hyon Hwak, Former Prime Minister of the Republic of Korea
Kalevi Sorsa, Former Prime Minister of Finland
Pierre Elliott Trudeau, Former Prime Minister of Canada
Ola Ullsten, Former Prime Minister of Sweden
George Vassiliou, Former President of Cyprus
Franz Vranitzky, Former President of Austria

LIBERTARIANS, AUTHORITARIANS, COMMUNITARIANS

From the Libertarian Side

Dirty Little Beer

In 1996, the Colorado liquor enforcement division banned the slogan “Good Beer, No Shit” on labels of Road Dog Ale, a beer produced by the Broadway Brewing Company in Denver. The ban was in accordance with a federal law barring labels on alcoholic beverages to contain obscenity or indecency. The slogan on the label was then changed to “Good Beer, No Censorship.”

The Colorado ACLU has taken up the Broadway Brewing Company’s case to have the original slogan remain on its beer labels. “The expression at the most is vulgar. It is a usage that might not be considered proper standard English in certain kinds of areas...When the government says we don’t like that nasty word, you can’t sell your beer, that’s censorship. And this kind of government censorship is not only forbidden by the First Amendment, it is just silly,” Colorado ACLU legal director Mark Silverstein told the *Denver Post*.

George Stranahan, part owner of Broadway Brewing, is confident that his First Amendment rights will prevail: “It is art; this is not foul-mouthing,” he said. But David Reitz, director of the Colorado liquor enforcement division, counters that the slogan is considered “by common language usage to be obscene or profane in nature.”

We're All Adults Here

Joel Cohen, a professor of psychology at Oakland Community College, is currently facing sexual harassment charges from a former female student. Cohen teaches Introduction to Psychology, which covers Freud, and, therefore, some sexually explicit material. Despite his estimation that only ten percent of the class material is explicit in nature, students have expressed objections to the sexual imagery and language he uses in class. Cohen therefore began the practice of issuing a disclaimer stating, "This is a class for mature adult students wherein sexually explicit material will be discussed in [an] open, frank manner. If controversial concepts and words bother you, be forewarned," and later says, "If you decide to stay in class and you experience distress when these discussion ensue you can leave the room and see this instructor after class to discuss the matter and a mutual way can be found to cover any significant material missed." He also advises students to discuss complaints about his class with the psychology department chairman.

But Anita S. Lee, a nursing student taking Cohen's course for her degree requirement, finds his method of teaching—and his disclaimer—offensive, stating that, by signing Cohen's disclaimer, she would be permitting Cohen to "sexually harass" her. She filed a complaint with the U.S. Department of Education charging Cohen and Oakland Community College with sexual harassment. She also wrote a letter to Oakland's Board of Trustees, citing her status as "a Christian woman" as grounds for the lawsuit. She asked the board to consider questions such as "Is [the course] honorable? Is it pure? Is it praiseworthy?"

The *Chronicle of Higher Education* reports that this is the first time in the history of his psychology course that Cohen has faced such charges. He is supported by his colleagues and by the chair of Oakland's psychology department. Ms. Lee enrolled in another section of the course, but is continuing her lawsuit.

We're All Adults Here, Part II

Sexual assault cases often come down to the question of consent. And there is no question that when someone grants consent, that person still reserves the right to withdraw that consent. But, as Vartan Gregorian told the *New York Times Magazine*, he came across a new twist on this theme while he was president at Brown University:

I had to deal with one case, for instance, that had come all the way up to my level. A couple had sex off-campus and the issue was whether the second time was authorized or not. The woman said she didn't remember the second incident on the same night—so it couldn't have been consensual. That shocked me. Because if the first incident on the same night is consensual, what is the second time? I do believe that no means no. But with this case I felt, Why are you bringing this to me?

Blowing Smoke

Recent findings on the deleterious effects of second-hand smoke on nonsmokers have called into question the right to smoke in public spaces, and in some cases have led to new laws restricting this right. In reaction to these developments, the National Smokers Alliance, a group based in Alexandria, Virginia, has stepped in as a defender of Americans' right to smoke, according to the *New York Times*. The Alliance boasts a membership of 3 million and draws financial support from tobacco companies. In their publications, the *NSA Voice* and the *Resistance*, the Alliance seeks to portray the struggles of the American smoker. The first issue of the *Resistance* likened smokers to French citizens in World War II:

In France, in the darkest days of World War II, the flame of freedom was kept burning by the Resistance. It has happened in many other countries, in many other circumstances and under many other names, but the Resistance has always been the last line of defense against those who would impose their will on a minority.... As the war on smokers escalates to fever pitch, the need for resistance has never been greater.

And what are the resisters defending? Not just the right to smoke, but the right to force that smoke on others. The *Resistance* approvingly cites those who call for civil disobedience against public bans on smoking:

“Bad laws should not be obeyed,” advised *Toronto Star* columnist Rosie Dimanno of the bylaw that banned smoking in almost all restaurants and bars citywide.... “Rebel, revolt, resist.”

The NSA also attempts to discredit scientific research on the dangers of secondhand smoke. But not all is negative. *NSA Voice* offers cheerful anecdotes for smokers:

They used to be smoke-break buddies; now they're husband and wife. That's the story of John and Betty Kaufman of Hermitage, Tennessee. "We initially met on a smoke break, and through that meeting it gave us the chance to get to know each other," said John. "We started planning our smoke breaks together, and one thing led to another...." Like too many workplaces nationwide, smoking is prohibited inside at the State of Tennessee's Department of Mental Health, where John and Betty work... "Our contact is slim to none," said John. "Chances are, without the smoke breaks, we never would have met."

Just like Bogart and Bergman.

From the Authoritarian Side

Trying to Put a Net on the Web

With the growing popularity of the Internet as a medium of information and communication, businesses, scholars, government officials, and political dissenters alike have used it to further their causes. However, citing the need to "safeguard national security and social stability," China recently enacted new rules governing the way the Internet may be used by its citizens.

The rules detail a list of computer crimes, including Internet pornography, hacking, and disclosing state secrets, but also make criminal "defam[ing] Government agencies," (via e-mail and Web pages) and "promot[ing] separatist movements" (also called "splitting the country"). This latter crime is specifically aimed at those promoting Taiwanese independence or supporting the Dalai Lama. The *New York Times* notes that these new rules "are clearly aimed at squelching the rapidly growing use of electronic mail and Web sites by dissidents to spread their message."

These recent rules follow a 1996 mandate against the "spiritual pollution" of China that banned citizens' access to hundreds of websites, such as those of human rights organizations, dissident groups, and

some foreign newspapers. Zhu Entao, China's Assistant Minister of Public Security, explained the reasoning behind the new laws: "The safe and effective management of computer information networks is a prerequisite for the smooth implementation of the country's modernization drive."

But Xiao Qiang, the executive director of a New York-based group called Human Rights in China, is skeptical about China's realistic ability to control the Internet. He notes that e-mail can still be used to distribute mass messages because it is difficult to trace them.

From the Community

They're Everyone's Children

Families nationwide are discovering a way to save money, guarantee quality care for their children, and become better acquainted with their neighbors: babysitting co-ops. Although such co-ops are not a new idea, they are springing up among families whose alternative options for child care—expensive child care services, sometimes inexperienced babysitters, or family members—are undesirable or impossible.

The co-ops operate on a coupon system, whereby members receive tickets to "pay" for babysitting services, and generally require families to use the co-op at least once every three or four months to stimulate the ticket exchange system. Co-ops are especially beneficial because of the flexibility they offer for parents who need a last-minute babysitter or even long-term child care if they take a vacation.

One of the most important aspects of participating in a co-op is trust in other parents, notes Candace Kuebel, who, along with her husband Roger, belongs to a co-op in Larchmont, New York. To establish trust, her co-op requires that those seeking membership set up play times with other members over a three-month period. "To be

honest, we want to get into that person's house. We also want to see whether they'll take the initiative to use the co-op."

While Mrs. Kuebel says that her co-op has run relatively smoothly since it began in 1995, other co-op members cite difficulties. There have been disagreements about guns in the homes of members. And the "hoarding" of tickets, which resulted in "inflation," made it difficult for families who were short on tickets to use the co-op because a few families had accumulated too many.

But in most cases, as noted in the *New York Times*, benefits outweigh problems: Mark Baron of Sharon, Massachusetts estimates that his 20-member co-op has saved its families \$20,000 in babysitting costs in the five years it has been in operation.

Book Bonding

In 1996, Mary Brown, a professor of English at Prince George's Community College in Maryland, wanted to find a way to bring community members together. She petitioned the college's president's council, faculty senate, and board of trustees to allow her to use college classrooms to introduce the "Book Bridge Project," in which college faculty, students, and community members would read and discuss a selected book to open discussion on race, class, and sexual harassment issues.

Over the next year, the Book Bridge Project Committee—comprised of Prince George's Community College faculty, staff, and alumni—reviewed several books to use for the project. The committee finally chose Bebe Moore Campbell's 1994 book, *Brothers and Sisters*. Set in Los Angeles, which was still reeling from the riots following the Rodney King trial, the book tells the story of two female friends—one black and one white—who work at a bank, where they confront sexual harassment, gender bias, and racism. Mary Brown explained in the *Washington Post* why the committee chose the book: "We wanted something [in which] most people could see themselves or somebody they know.... We wanted a novel that would cross the cultures in the country."

Visiting libraries, community groups, businesses, county officials—and even going door to door—Brown publicized the discussion

group throughout Prince George's County. Brown's efforts paid off: now, along with her discussion group which meets at Prince George's Community College, other groups—including the employees of a local hospital and a church senior citizens group—have been formed throughout the county. *Brothers and Sisters* is being taught, read, and discussed among faculty and students at the college. And, in support of Brown's project, the area's supplier of electricity, Potomac Electric Power Company, donated 500 copies of the book to those who could not afford it.

Bebe Moore Campbell is both "honored and humbled" that her book was chosen, but is not surprised by the positive effect it has had in Prince George's County. "The best-kept secret in America is that a lot of us are friends. A lot of us get along and respect each other. More of us are doing that than ever before. It is not earth-shaking. It doesn't set cities on fire, but it's its own quiet revolution."

Nora Pollock

Readers interested in receiving information about communitarian activities, publications, news, etc., via our electronic newsletter, *The Communitarian Update*, please send the message "subscribe comnet" followed by your name, to listserv@hermes.circ.gwu.edu.

The *Update* is sent every 6-8 weeks.

THE COMMUNITY'S PULSE

Catching Up¹

Annual percentage changes from 1987 to 1996

	Black	Asian	Hispanic	White
New Mortgages	+15.11%	+4.86%	+15.89%	+4.46%
Owned Businesses	+7.55%	+8.11%	+11.85%	+1.52%
College Degrees	+5.69%	+8.28%	+8.80%	+2.43%

Leaving Some Behind²

Segment of Population	1995 Average Income	Growth Since 1975
Richest 5%	\$188,962	54.1%
Top 20%	\$109,411	35.4%
Second 20%	\$52,429	13.0%
Middle 20%	\$34,106	6.7%
Fourth 20%	\$20,397	4.4%
Bottom 20%	\$8,350	1.5%

The Power of Two³

Single-Mother Families as a Percent of All Families With Children	Percent of All Families With Children Receiving Federal Aid
1960	9%
1965	10%
1970	12%
1975	15%
1980	19%
1985	21%
1990	22%
1995	24%

¹ *Wall Street Journal*, October 7, 1997, p. A2.

² *Time Magazine*, July 21, 1997, p. 16.

³ U.S. Census Bureau, *Current Population Reports: Income, Poverty, and Valuation of Non-Cash Benefits: 1994*.

Compiled by Peter Rubin

KALEIDOSCOPE

ISRAEL: GAS MASK PRIORITIES

During the most recent confrontation with Iraq, which once again posed the threat of Scud missiles armed with biological weapons, Israelis have been scrambling to obtain gas masks. But as the *New Yorker* reports, the Israeli government is struggling with a severe shortage of masks, forcing the question: Who gets them? The answer has caused no small amount of controversy.

Because regular masks do not cover beards, members of Israel's Orthodox community charge the government with a form of religious persecution, designed to force them to shave. "In Hitler's time, Jews were forced to shave their beards. We won't let it happen again," said Rabbi Chaim Miller. According to the army, special masks designed to cover the beards would be provided once they located the proper batteries to operate the filters. Until then, those who refused to shave would not get masks. Dismissing this explanation, Miller quipped: "So what are they going to do—scurry around looking for batteries while the Scuds are flying over?"

At least the Orthodox community is scheduled to receive masks. Anyone without an Israeli identity card is denied a mask altogether, leaving foreign workers unprotected. But perhaps the lowest rungs on the gas-mask ladder are occupied by the foreign press and local dogs. Animal rights groups are demanding that pets receive special gear: "Dogs are Israeli citizens, too.... They'll suffer a terrible death," implored activist Eti Altman. Though the Government Press Office

(GPO) promises all journalists masks in the event of an attack, a GPO clerk wryly remarked, “we’ll see how Netanyahu *really* feels about the press.”

Tim Blaser

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COMMENTARY

Unfair Assault

Norval Glenn's "A Textbook Assault on Marriage" (Fall 1997) presents a misleading picture of what college students are being taught about marriage. Glenn rates 20 textbooks as "poor," claiming that they are ideologically biased against marriage. As author of one of these books, I believe that Glenn's article reveals more about his own ideological stance than about the research evidence, or the contents of family textbooks.

It is not necessary to have read any of these books to question whether lumping together 20 of them and dismissing them all as "poor" represents the high scholarly standards Glenn claims to be upholding. I am willing to be held accountable for errors in my own text, but not any in the 19 others. Further, Glenn's definition of "error" is very broad: it includes not simply mistakes of fact, but interpretations of the research evidence that differ from his own. For example, he quotes a passage from my book that I had written as follows:

"The majority of well-designed studies...find that family structure—the number of parents in the home or the fact of divorce—is not *in itself* the critical factor in children's well being. In both intact and other families, what children need most is a warm, concerned relationship with at least one parent." (italics in original)

Glenn omits the italics, a small but telling inaccuracy that ignores the emphasis in my statement. He goes on to write "it borders on educational malpractice to tell students that process matters but structure

does not”—strong words, but an erroneous interpretation of what I wrote.

Glenn himself ignores research evidence that confirms the importance of family process. For example, Philip and Carolyn Cowan have found that large numbers of outwardly “normal” middle-class married couples encounter serious difficulty in the ordinary course of raising children and earning a living. Five years after having children, half of these couples report having troubled marriages, and a quarter of the men and women are showing signs of depression. John Gottman and Robert Levenson have documented the interactive processes that corrode a couple’s relationship and damage the well-being of both adults and children in the family.

This newer research, using observation and intensive longitudinal methods, corroborates the long-established finding that “bad” but intact marriages—not just violent or abusive, but highly conflicted, coldly hostile, or where one or both parents is depressed—can be worse for children than divorce or growing up in a stable and loving single parent family.

Further, recent research has also shown that while the risk of problems—dropping out of high school, for example—is greater for children from single parent families, the great majority of such children do not suffer negative outcomes. And as Sara McLanahan has pointed out, “Even if all children lived in two-parent families, the bulk of these problems would remain.”

Glenn further misleads his readers by claiming that textbooks rarely receive critical scrutiny by family scholars. Yet two academic journals—*Contemporary Sociology* and *The Journal of Family Issues*—did publish reviews of many of the same textbooks in May of 1997, before Glenn’s critique appeared. In contrast to Glenn, these reviews pointed to many differences among the texts reviewed. Moreover, their evaluations of the texts were far more positive than his, and neither review detected the biases Glenn claims to have found.

Glenn’s critique has appeared in a number of versions, and each has grown increasingly intemperate, particularly when he is writing for the mass media. The most modulated version appeared in the July 1997 issue of the journal *Family Relations*. Far from finding an “Assault

on Marriage,” Glenn claimed he did not find an “explicitly anti-marriage” bias in most of the books, and one of the 20 books was exempted from most of his criticism.

It’s too bad that Glenn chooses to express his concerns about the troubled state of marriage by defaming the credibility of other family scholars. It would be far better to try to understand the sources of the many stresses on marriage—the time pressures and conflicts between work and family that plague most parents, for example—and do some constructive thinking about resolving them.

The transformation of work in the post-industrial era and the resulting shift towards the symmetrical two-earner family is a major source of marital and family stress. Both men and women increasingly endorse the ideal of sharing work and household responsibilities, an ideal hard to achieve in practice. When these expectations are not met, the result is marital tension. Further, as sociologist Frank Furstenberg points out, the unpredictability and insecurity of today’s job market has unsettled marriage, and turned it into a luxury item that many people simply cannot afford.

No amount of culture war rhetoric is going to help families deal with the challenges they face in an era of massive economic and social transition. It’s time for those concerned about the state of family life in America to seek common ground. We need to move past the finger pointing towards a reasoned national conversation about where the family is and where it is going.

Arlene Skolnick,
Author of Intimate Environment

Norval Glenn’s response:

Unlike most published comments on my textbook critique, Arlene Skolnick’s is civil and sans major misrepresentations of what I said, and it makes some valid points. I hope it helps to promote a more constructive dialogue about the issues raised in my critique than has occurred so far.

I concede that *The Responsive Community* version of my critique contains some unclear and misleading language. I should have specified, for instance, that the terms “poor” and “failing grade” apply to the books considered as a whole, and to most of the books, but not to every single one. I found considerable variation in the books’ quality, as is clear in the version of the critique in which I give the books grades varying from A to F on each of three dimensions. I apologize for the missing emphasis in the quote from Skolnick, though I doubt that the omission makes much difference. With or without the emphasis, the statement quoted is correct but misleading given the context in which it appears.

I stand by my statement that professional journals generally have paid little attention to textbooks. The two reviews of family textbooks that appeared after the first version of my critique went to press do not, by themselves, invalidate that conclusion.

Much that Skolnick says is true but irrelevant to the issues discussed in my critique. For instance, neither I nor any other reputable family scholar claims that all intact families are alike or that all two-parent families are better for children than all single-parent families.

I agree that trying to understand stresses on marriages is important, and I spend a great deal of time doing that. However, I, unlike Skolnick, believe that addressing weaknesses in textbooks is equally important, if only because it is to a large extent through the textbooks that findings and insights about marital stress are communicated to those who may base personal and professional decisions on them.

The True Foundation of Values

Like John Leo (Winter 1997/98), I too am disgusted with the popular idea that all values are just whatever anyone happens to like at the moment. But his word “absolutophobia” implies an excursion into “metaphysicophilia” which it is important to avoid.

Philosophers will continue to debate the sources of values, and in what sense values can be “ultimate.” But frankly, I think these are philosophical niceties that do not much interest most people. The crucial question about values is not whether they “exist” somehow separate from human life and mental activity, but whether people commit themselves to them. It is commitment, and only that, which is capable of giving values a kind of “absolute” character.

In many societies rites of passage are instituted to induct young people into the status of adult and responsible member of the community—rites in which the individual has to commit him or herself. Confirmation and Bar Mitzvah can be construed in this way. But on the whole, such rituals have been neglected by our hyper-rational society. The Pledge of Allegiance will not do. (Anything mumbled too often makes us drowsy and loses its meaning.) Perhaps we should have a ritual of First Time Voting or (if we had such a thing) induction into universal public service. Or, like other new citizens, young people could have their understanding of the Constitution and the Bill of Rights tested, or they could be tested for their awareness and ability to argue about some basic value-laden ideas—that you should love your neighbor as yourself, that the Good Samaritan was a good guy, that self-sacrifice can be an admirable thing, that there are times when we should put the well-being of our community ahead of our own comfort, that justice demands an equal liberty for all, that others’ privacy and religious beliefs should be respected, that even when others’ speech makes us furious, the “remedy for speech is more speech,” and so on. Is it my naive and simple-minded faith that we might get a fair amount of agreement on these value-laden propositions?

Appeals to “absolute values” may sound good, but to me such appeals sound a little autocratic. It sounds as if we did not choose our values, but had them thrust upon us. Of course, we learn values from our parents, our forebears, our religion, and our communities. But commitments are obligations accepted “with all our heart,” freely accepted, and accepted conscious of that freedom. Then if we speak of our “absolute values,” we know *whose* they are: it is we ourselves who have embraced whatever ideas—of right and wrong, good and bad, beautiful and ugly—we have made the anchors and moral core of our

selves. In the end, our beliefs and values, and our commitment to them, are our own personal responsibility, inescapably our own.

Arnold Simmel
New York City, New York

Duty to Rescue: Laws Are Not Enough

In “The Duty to Rescue” (Summer 1997), Steven Heyman seeks to make a case for a duty to rescue based on liberal and communitarian principles. The problem is that simply arguing that there should be a law requiring assistance, however well-grounded in persuasive or logical language, will not bring it into existence. The question that remains is what social conditions are necessary for such a law to exist in the first place.

While this is not an easy question to answer, we may learn something by looking at one community in which a duty to rescue does exist. In his *Code* of Jewish laws, Maimonides wrote:

If one person is able to save another and does not save him, he transgresses the commandment, *Neither shalt thou stand idly by the blood of thy neighbor* (Leviticus 19:16)... [I]f one hears heathens or informers plotting evil against another or laying a trap for him and does not call it to the other’s attention and let him know; or if one knows that a heathen or a violent person is going to attack another and although able to appease him on behalf of the other and make him change his mind, he does not do so; or if one acts in any similar way—he transgresses in each case the injunction: *Neither shalt thou stand idly by the blood of thy neighbor*.

What is noteworthy for us about the requirements in Jewish law is not simply their strictness, but that Maimonides makes specific reference to dangers posed by “heathens,” who are mentioned in the same breath with informers and violent persons. The suggestion here is that Jewish law is not intended to represent a moral goal to which all mankind is required to work (however desirable that may be in the abstract), but instead is meant to focus on the concrete task of protect-

ing the Jewish community. The duty to rescue extends to those in one's community.

Where does this leave us? Still with more questions than answers. Is there an adequate sense of community in the United States? Would passing a law requiring rescue be useful? Some have argued that we should leave it to religion or morals to persuade persons to do good. Especially in individualistic America, laws to force persons to do good interfere with valued freedoms. But we do force people to do good if a valued community principle is at issue, as when a majority vote for a school levy that everyone must pay for in taxes, or when we draft people to serve in the military. Still, in considering a new law, we must ask: Will the law influence behavior to the point of being obeyed?

But most likely such an approach has the causal arrow backward. We first need the conditions that will give rise to such a law. In other words, we need the conditions that create community. The target should not first be legislators whom we might seek to persuade, but rather neighborhoods we might seek to strengthen. At some time later, a rescue law can then be introduced that will symbolize communal values and, by that token, further strengthen those values. But that can come only when there is an adequate sense of community.

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