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While attending a recent international health conference, I sat in on a session on AIDS prevention. Out of the four scheduled presenters, only one, an American, showed up to speak; the other three, all African, could not attend due to travel problems. The American speaker spoke about HIV transmission among gay men, using the word “homophobia” about a dozen times. The audience, mainly from Africa, Latin America, and the Caribbean, seemed unresponsive, and while there was at least 90 minutes left for a Q&A session, no one said a word. The situation seemed a bit awkward. The session moderator knew me, and perhaps because I was sitting near the front of the room, she asked me if I would like to open up a discussion about AIDS prevention. So I commented on the different patterns and dynamics of transmission between AIDS in America and Africa, and told the audience a little about Uganda’s simple, low-cost ABC program, led by President Museveni: Abstain, Be faithful, or use Condoms if A and B are not practiced. The abstinence message urges youth to delay having sex until they are older, preferably married. There is a deliberate attempt to fight stigma and discrimination associated with AIDS, and to generate open and candid discussion about the epidemic everywhere, down to the village level. Information about AIDS and how to avoid it reaches local communities through culturally appropriate means of communication involv-
ing local leaders, indigenous healers, drama, and song. There is AIDS education in the primary schools. Christian and Muslim faith-based organizations have been involved from the beginning of the national response, and they are particularly adept at promoting abstinence and faithfulness. The government took concrete steps to empower women so that they can refuse unwanted sex.

The result? Since the program’s inception, Uganda has experienced an unparalleled two-thirds reduction in national HIV infection rates, and in 1989, the new infection rate began to decline. Western experts began showing up a few years later.

The audience was immediately full of questions: Why had they not heard more about these interventions? Why don’t we involve religious groups and schoolteachers more in AIDS prevention? How can we prevent seduction of schoolgirls by older men? How can we get husbands to stop running around and then infecting their wives? Just as the audience had no comments about the presentation they had just heard, the American who had made the presentation had no comments about this new topic that so animated the audience.

This illustrates not only the very different types of epidemics found in two regions of the world and therefore the different responses needed to address them, but also a clash of cultures and values between the West and Africa. Africans and others in the audience thought that promotion of fidelity and abstinence was exactly the right response to AIDS, whereas this is usually thought by Westerners to constitute unwarranted infringement into people’s personal lives. Some of my colleagues call this approach “missionary terrorism,” designed to interfere with people’s right to experience having multiple sexual partners. The American and indeed Western model of AIDS prevention is to leave sexual behavior alone, but reduce risk by promoting condoms and treating the curable STDs (since these facilitate the transmission of HIV).

How has the Western risk-reduction model fared in Africa? There is no evidence that mass promotion of condoms has paid off with a decline of HIV infection rates at the population level in Africa, according to a new UNAIDS assessment of condom effectiveness. In fact, countries with the highest levels of condom availability (Zimbabwe, Botswana, South Africa, Kenya) also have some of the highest
HIV prevalence rates in the world. Still unknown is the impact of the other relatively expensive AIDS prevention programs we now fund, namely widespread treatment of STDs or voluntary counseling and testing. We do know that these programs, along with condom social marketing, had not yet started in Uganda when infection rates began to decline. This does not mean they might not have contributed to the decline in HIV in later years. In fact, even though only 8 percent of Ugandan men and women were using condoms regularly by 2000, those who were using them were exactly the ones who needed them: sex workers and the relatively few men who still had multiple partners.

To understand why the major donors continue to pour millions of dollars into risk reduction while largely ignoring the evidence from Africa, it is useful to review some recent history. Western donor organizations and the groups they fund began implementing “behavior change communications” programs in the Third World in the mid-1980s, soon after American AIDS activists felt they had discovered how to defeat AIDS in San Francisco and New York. Of course, the very term “behavior change” suggests that outsiders know what is best for Africans, that Africans are misbehaving and need to change their behavior, and that outsiders will show them the way to behave. Yet now that we have comparative data, we know that African and American sexual behavior is not very different. There are subgroups of Africans and Americans who have a great many sexual partners, but most people in both populations do not.

When Americans designed interventions for Africans, the only prevention model available was the risk reduction model that had been designed in the United States for special high-risk groups. The model’s premise was that we cannot change the behavior of gay men (or drug addicts), therefore the best we can do is reduce risk through condom promotion (and needle exchange for addicts). This model seemed to work in the 1980s, although infection rates are rising again among gay men in America. Nevertheless, since the mid-1980s, this model has been applied to populations where most of those infected are not in special high-risk groups but instead in the majority population. In short, we provided American solutions for Third World populations. Once the risk reduction model was launched in Africa
and the developing world, it assumed a life of its own and became the unchallenged paradigm for global AIDS prevention.

The risk reduction approach also involves the promotion of “safer sex” practices such as mutual masturbation and oral sex, if not male-to-male sex, even though all these practices seem to be comparatively rare in Africa. Some Westerners see this as liberating Africans from outmoded and perhaps repressive sexual norms. What Americans and Europeans forgot when designing these approaches is that African cultures are still largely bound by tradition and religion, and that they have not undergone the general sexual revolution, and certainly not the gay-lesbian revolution, of the West. This should have been Anthropology 101.

In the minds of Western AIDS activists and public health professionals, no one should judge someone else’s sexual behavior. This leads to “moralizing” about behavior, which should not have any place in public health. Yet Ugandans who turned around their AIDS epidemic did not know they were supposed to remain value-neutral. In a BBC interview in August 2002, Museveni recounted how he talked about AIDS at every meeting with the public: “I would shout at them… you are going to die if you don’t stop this [having multiple sexual partners]. You are going to die.”

Forms of sexual behavior highly relevant to HIV transmission, such as rape, coercion, and seduction of minors, take us into the realm of morals or at least ethics, whatever our objections. Issues involving questions of right and wrong may well require an ethical or value-related answer. Ellen Goodman has wondered whether in the American transition from a more religious to a more secular society, we have somehow given ourselves a “moral lobotomy.” She asks whether, due to our reluctance to being considered judgmental, “...are we disabled from making any judgment at all?” To avoid a fatal disease fueled by having multiple sex partners, good judgment dictates that people have fewer partners. Common sense should not be dismissed as moralizing.

Apart from Western values and biases, there are economic factors to consider. AIDS prevention has become a billion dollar industry. Under President Bush’s global AIDS initiative, the U.S. will spend $15 billion, partially on prevention. It would be politically naive to expect
that those who profit from the lucrative AIDS-prevention industry would not be inclined to protect their interests. Those who work in condom promotion and STD treatment, as well as the industries that supply these devices and drugs, do not want to lose market share, so to speak, to those few who have begun to talk about behavior. Put crudely, who makes a buck if Africans simply start being monogamous?

Financial interests aside, it is tempting to rely on quick technological fixes to complex problems involving human behavior. Condoms and STD drugs can be procured, promoted, and distributed, and all of this can be counted easily. With condoms and pills we have ready-made monitoring and evaluation measurement units, and these units are already familiar from decades of experience with family planning programs. USAID often comments that it has a “comparative advantage” in the condom supply and promotion part of AIDS prevention. Yet other major donors could also make the same claim, leaving no one with a “comparative advantage” in promoting non-contraceptive, non-drug interventions focused on simple behavioral change. In fact, faith-based organizations have exactly this interest and capability, but they are usually excluded from donor-funded participation in AIDS prevention. Western experts, who often have backgrounds in AIDS activism and contraception, are predisposed to be suspicious about religious organizations. There is a long history of antagonism between family planning organizations and certain religious groups, notably the Roman Catholic Church, and more recently, the “religious right” in America. Some of my family planning colleagues fear that raising any question about condom effectiveness for AIDS prevention is evidence of a larger agenda to cut off funding for all contraception and to oppose the advancement of women’s rights.

Part of the whole problem is precisely the “ever-increasing polarization between left and right.” Some in the religious right have in fact attacked broader contraception and progressive social programs in the same breath as they have attacked the condom distribution (or “condom airlift”) solution to AIDS. This has put liberals so much on the defensive that they will simply not listen to logical public health arguments on the need to address risky sexual behavior in a pandemic driven by risky sexual behavior. Partisans on the left and right
are currently fighting over how the newly promised billions for AIDS prevention will be spent. The fight seems to have once again been reduced to condoms versus abstinence, forgetting that the lesson from Uganda is that a balanced, integrated approach that provides a range of behavioral options is what works best.

**U.S. to Support a *Religious* Civil Society**

Amitai Etzioni

The United States in Iraq should cease promoting a secular civil society as the only alternative to a Taliban-like Shi’a theocracy. We cannot quell the religious yearnings of millions of Iraqis (and many others elsewhere) merely by fostering democracy and capitalism. The most effective way to counter a theocracy is to include moderate, liberal religious elements in the civil society we are helping to erect.

The First Amendment’s disestablishment clause is not a foreign policy tool, but a peculiar American conception. Just because the American government is banned from promoting religion within the United States—in which religion is thriving—does not mean that the State Department and the Pentagon cannot promote religious elements as part of the civil society we are helping to develop in Iraq, Afghanistan, and elsewhere.

I know a bit about how receptive Shiites are to non-Wahhabi, moderate Islam because they laid out their position during a three-week meeting in Iran, which I attended a year ago. Although the meeting in Iran was organized by the reformers, headed by Seyyed Ataollah Mohajerani, several hardliners also participated. The main point, repeatedly stressed during the meeting, was that both Shi’a camps—the hardliners and the reformers—want to live in an Islamic *society*. The main difference between them is that the prevailing hardliners are committed to enforcing the religious code by the use of
moral squads, secret police, and jails, while the reformers favor encouraging people to be devout, rather than making them abide by the Prophet’s dictates. The line I heard repeated most often was that “if you do not force people to come, they will want to come.”

Liberal Islam differs from the Wahhabi version in that it draws on the members of the community for consultations (shura) for interpretations of the text rather than on rulings by the mullahs. It acknowledges that the Koran acquires different meanings as the times change. (In their words, it needs to be “retranslated.”) Liberal Islam is supportive rather than condemning. It is spiritual and social rather than political. Indeed it differs from the rigid authoritarian version, by several more orders of magnitude, but along the same dimensions as liberal Protestants differ from Southern Baptists, and Reform Jews from Ultra-Orthodox ones.

Specifically, instead of demanding that the current madrassas be replaced by secular schools, as Senator Biden suggested, we may favor the inclusion of religious electives in public schools (as long as the teachers are qualified and hence not fundamentalist). We should welcome the continuation of some provisions of social services by religious bodies, as long as the funds are used for social and not political or religious purposes (call them faith-based institutions). And we should allow the state to pay the salaries of clergy and for the maintenance of places of worship as most democracies (other than the United States and France) do.

One may ask, “what about Christians and those who do not wish to adhere to any religion?” Such a question ignores the essential difference between a state and a society, between a government enforcing adherence to a religious code and promoting it as one alternative available to those who freely seek to embrace it. Lest this sound too abstract, one should note that despite our insistence on the separation of state and church, we too allow various religious authorities to conduct marriages that are recognized by the state as well as enable people to be married in a civil ceremony without any religious trappings.

The trouble is that so far we have been approaching Iraq as if we favor only secular institutions. For instance, the 13 points released by the U.S. Central Command headquarters in Qatar in mid-April state
that Iraq must be a democracy, that the rule of law must be paramount, and that the role of women must be respected—all of which are fine, yet all speak only to the secular elements of the future of Iraq.

To favor liberal Islam as an antidote to fundamentalist Islam is not to be confused with a related but different question, whether Islam can be compatible with a democratic regime. This question concerns whether Islam can live with free elections, tolerate a free press, and so on. I take it for granted that Iraq should have a democratic form of government. However, it should be one that does not treat religion as a threat per se, but, potentially, as a mainstay of the civil society, and hence, religion should be promoted, in its moderate forms.

The current U.S. position reflects, whether deliberately or unwittingly, the “end of history” conception that all ideologies are on their last legs, as the world embraces the American ideals of democracy, human rights, and the free market. This idea, in turn, is but an extension of the Enlightenment conceit that modernity is based on rational thinking, which religion is not, and hence it is history, while secularism (reason, science) will govern the future. However, as we are learning, all over the world, people have spiritual needs that cannot be addressed, let alone satisfied, by Enlightenment ideals. Hence, we have seen an explosive growth of Christianity in East Asia and Africa; a resurgence of religion in Russia and other former communist nations in Eastern Europe, and a rise in Islam not only in countries that we never modernized, but even in those that had extensive secular, modern periods, most tellingly, in Turkey. People are seeking answers to questions such as why we are cast into this world; why we are born to die; what the purpose of life is; and what we owe to our children, what they owe elderly parents, and what is due to our friends and community. Neither democracy nor capitalism speaks to these issues. Hence for the many millions of people who acutely feel a need to respond to these transcendental and moral questions, there are two main options: a variety of hardliner or moderate religious answers. The one we should favor is clear, as long as we get off our Enlightenment high horse.
George Ryan’s commutation of the capital sentences of all 156 Illinois death row inmates on January 11, 2003, his last official act as governor of the state, was audacious in several respects. Ryan had been a longtime supporter of the death penalty, so the act represented an extraordinary about-face. It had a distinct “wag the dog” quality, coming as it did while Ryan was under a cloud of suspicion for racketeering, kickbacks, money laundering and extortion. It affronted not just survivors of the victims of convicted murderers; in overturning an entire cohort of sentences that had been established legitimately by the people of Illinois, his act served to undermine the rule of law for all the citizens of Illinois, including those opposed to capital punishment. Ryan’s act was akin to jury nullification, but a juror can nullify only one case at a time. Even if honestly rooted in moral principle, this was a mass assault on the democratic process.

Less audacious, but of greater lasting significance than the politics, motives, and morality of Ryan’s decision, was his declared justification for nullifying the law: that his act was necessary because the affected inmates had been sanctioned under a system that was prone to error. “Our capital system is haunted by the demon of error, error in determining guilt, and error in determining who among the guilty deserves to die.”

Ryan sounded sincere in expressing concern about errors in the use of the death penalty, and regardless of whether this was truly his primary motive for acting as he did, he is not alone in voicing such discomfort. For years opponents have argued against the death penalty on grounds that it does not deter, that it is unevenly applied, that it is inhumane, barbaric, and immoral. None of those arguments appears to have made a serious dent in the general public’s widespread support for the death penalty. But the exoneration of 1.3 percent of all death row inmates throughout the United States from 1977 to 2002, many due to DNA evidence that had not been available at the time of the original trial, has gotten the attention of authorities not previously noted for their misgivings about the death penalty. In
a 2001 speech on the death penalty, Justice Sandra Day O’Connor observed: “the system may well be allowing some innocent defendants to be executed.”

Concern about the problem of errors of justice has spawned a considerable body of academic literature on the subject, focusing almost exclusively on wrongful convictions. These writings chronicle the cases of dozens of innocent people who, in just the past 30 years, have had the misfortune of being in the wrong place at the wrong time, sometimes bearing a physical resemblance to the offender, often at the losing end of a positive but mistaken witness identification, and an ineffective court-appointed defense lawyer, occasionally the victim of a jailhouse snitch, a coerced confession, an unscrupulous evidence technician, an over-reaching prosecutor. The errors are typically exposed following exonerating forensic evidence or a confession by another person.

Errors of Due Process and Errors of Impunity

One who reads this scholarly literature and listens to George Ryan’s valedictory might be inclined to conclude that the system is replete with errors of a particular sort: convictions of the wrong person. Such a position would be misguided in two important respects. First, many—perhaps most—conviction reversals in capital cases are the product of disputes over interpretation of the law or procedural error rather than wrong-person error. In only a small minority of these cases is another offender identified with more compelling evidence of incrimination. Paul Cassell, James Q. Wilson, and others have observed that a potentially large share of the reversals may be the product of fervent opposition to the death penalty by the deciding appeal judges.

Second, erroneous convictions are, by any serious reckoning, minuscule when compared to a far more pervasive error of justice: failure to hold culpable offenders accountable for the crimes they commit. Over the past 20 years or so, the number of felony offenses reported to the police in the United States has been in the neighborhood of 10 million annually. The results of the National Crime Victimization Survey suggest that about again as many felony crimes are not reported to the police each year. Of the 10 million felonies that
are reported, about 2 million result in arrest. Approximately half of those leave the courts as convictions. The offenders who commit the remainder, comprising roughly 20 million felony offenses, are not sanctioned for these crimes.

Erroneous convictions, on the other hand, have been estimated to be in the neighborhood of 0.5 percent of all convictions, according to criminologists Ronald Huff, Arye Rattner, and Edward Sagarin. Their estimate suggests that each year some 5,000 persons are convicted for felony offenses they did not commit. If the 1.3 percent of all death row inmates who have been exonerated since 1977 is closer to the mark, then 13,000 innocent persons are thus convicted. Using this range of estimates, the number of culpable offenders not brought to justice would stand somewhere between 1,500 and 4,000 for each person wrongfully convicted.

[The speculative nature of these estimates cannot be overemphasized. The estimate of 13,000 will be too high to the extent that some of the erroneous convictions reported are due to procedural rather than wrong-person errors. Also, some of the 13,000 may well have committed other felony offenses for which they were not brought to justice, a sort of canceling of errors over time, although an imperfect form of justice that threatens legitimacy along the way. Moreover, the rate of erroneous convictions may be higher for capital crimes than for other felonies; e.g., errors may be more likely when prosecutors feel a greater pressure to convict, as they do in capital crimes. The estimate will be too low to the extent that the rate of erroneous convictions is higher for run-of-the-mill felonies than for capital crimes. Juries may be less inclined to convict when they know that the death penalty may follow their finding of guilt, as Zeisel and Diamond have reported, or they may be more inclined if prospective jurors are disproportionately excluded from duty in death penalty cases if they say they are opposed to capital punishment.]

Although it is not common practice, it is surely valid to regard these instances of unresolved felonies as errors of justice. Themis, the blindfolded goddess of Justice, holds a balance scale with two plates, and errors can occur on either side. Wrongful convictions represent errors of due process, and failures to bring culpable offenders to justice represent lapses in the justice system’s aim of ensuring domestic
tranquility and the rule of law, which we can regard as errors of impunity. These two types of justice errors are complementary in the same sense that the Food and Drug Administration can err either on the side of prohibiting the release of a new drug that is effective and safe or releasing it when it is more harmful than effective, with corresponding costs associated with each type of error.

Scholars have expressed concern about errors of due process for centuries. In 1749, Voltaire argued, “It is better to risk saving a guilty person than to condemn an innocent one.” A few years later (1765), the British jurist Blackstone asserted, “It is better that ten guilty persons escape than one innocent person suffer.” These numbers may pertain primarily to cases that come before a judge rather than to all felony offenses, but they were proposed in any case without regard to the prospect that the social costs of each type of error may vary substantially from one type of crime to another. Surely most people would be much more comfortable about freeing ten culpable shoplifters per innocent person convicted of shoplifting than they would about sending ten culpable serial rapists back into the community per innocent person charged with rape and convicted. One cannot help but wonder, in any event, what Voltaire and Blackstone would have said about a system in which well over a thousand felony offenders are not brought to justice for their crimes for each innocent person who is convicted.

Lippmann on the Importance of Studying Error

Governor Ryan’s commutation of death sentences in Illinois won him both friends and enemies, but everyone should thank him for directing the public spotlight to the issue of errors of justice. We can use this as an occasion to ask about all serious errors of justice, their sources and costs. Preoccupation with anecdotes about wrongful convictions in individual death penalty cases has distracted us from the more pervasive problem of wrongful convictions in other serious felony cases, and from the more vastly pervasive problem of lapses of justice in cases involving murders and other heinous crimes that do not result in conviction. Tensions between wrongful convictions and errors of impunity have been raised to an extraordinary new level in the era of terrorism. Should we aim to protect people’s civil liberties when doing so raises appreciably the risk of a terrorist act that could
jeopardize the lives of hundreds of thousands of innocent people? Should we restrict civil liberties, in the interest of preventing acts of terrorism, if doing so makes life unbearable for large numbers of innocent people? Finding a balance between these two deeply unpleasant extremes will surely be done using conventional political processes, without the benefit of a decision calculus that weighs precisely all the relevant social costs. We can hope that they will be based at least on common sense, with an awareness of the likely consequences of the basic alternatives.

In the meantime, it seems more than realistic to begin developing systems for managing criminal justice errors, to assess policies and practices of the police and courts in terms of their effects on errors, along lines that parallel such frameworks in other domains. In the process, we ought to be able to benefit from an observation made by Walter Lippmann in his classic, *Public Opinion*, over 80 years ago: “The study of error is not only in the highest degree prophylactic, but it serves as a stimulating introduction to the study of truth.” At the very least we should be able to catalogue more systematically the nature and sources of errors on both sides of the scale of justice, and consider how they may be affected by changes in rules and laws, policies and procedures.

Errors of justice harm us all. They undermine trust, drain our resources, create inequities, and restrict our freedom. They diminish the quality of our lives. They warrant more coherent treatment than we have given them.
The revolutions which ushered in regimes of popular sovereignty transferred the ruling power from a king onto a “nation,” or a “people.” In the process, they invented a new kind of collective agency. These terms existed before, but the thing they now indicate, this new kind of agency, is something unprecedented, at least in the immediate context of early modern Europe. Thus the notion ‘people’ could certainly be applied to the ensemble of subjects of the kingdom, or to the nonelite strata of society, but prior to the turnover it hadn’t indicated an entity which could decide and act together, to whom one could attribute a will.

Why does this new kind of entity need a strong form of cohesion? Isn’t the notion of popular sovereignty simply that of majority will, more or less restrained by the respect of liberty and rights? But this kind of decision rule can be adopted by all sorts of bodies, even those which are the loosest aggregations. Supposing during a public

lecture, some people feel the heat oppressive and ask that the windows be opened; others demur. One might easily decide this by a show of hands, and those present would accept this as legitimate. And yet the audience of the lecture might be the most disparate congeries of individuals, unknown to one another, without mutual concern, just brought together by that event.

This example shows by contrast what democratic societies need. It seems at once intuitively clear that they have to be bonded more powerfully than this chance grouping. But how can we understand this necessity?

One way to see it is to push a bit farther the logic of popular sovereignty. It not only recommends a certain class of decision procedures—those which are grounded ultimately on the majority (with restrictions)—but it also offers a particular justification. Under a regime of popular sovereignty, we are free in a way we are not under an absolute monarch, or an entrenched aristocracy, for instance.

Now supposing we see this from the standpoint of some individual. Let’s say I am outvoted on some important issue. I am forced to abide by a rule I am opposed to. My will is not being done. Why should I consider myself free? Does it matter that I am overridden by the majority of my fellow citizens, as against the decisions of a monarch? Why should that be decisive? We can even imagine that a potential monarch, waiting to return to power in a coup, agrees with me on this question, against the majority. Wouldn’t I then be freer after the counterrevolution? After all, my will on this matter would then be put into effect.

We can recognize that this kind of question is not merely a theoretical one. It is rarely put on behalf of individuals, but it regularly arises on behalf of subgroups, e.g., national minorities, who see themselves as oppressed. Perhaps no answer can satisfy them. Whatever one says, they cannot see themselves as part of this larger sovereign people. And therefore they see its rule over them as illegitimate, and this according to the logic of popular sovereignty itself.

We see here the inner link between popular sovereignty and the idea of the people as a collective agency, in some stronger sense than
our lecture audience above. This agency is something you can be included in without really belonging to, which makes no sense for a member of the audience. We can see the nature of this belonging if we ask what is the answer we can give to those who are outvoted and are tempted by the argument above.

Of course, some extreme philosophical individualists believe that there is no valid answer, that appeals to some greater collective is just so much humbug to get contrary voters to accept voluntary servitude. But without deciding this ultimate philosophical issue, we can ask: What is the feature of our “imagined communities” by which people very often do readily accept that they are free under a democratic regime, even where their will is overridden on important issues?

The answer they accept runs something like this: You, like the rest of us, are free just in virtue of the fact that we are ruling ourselves in common, and not being ruled by some agency which need take no account of us. Your freedom consists in your having a guaranteed voice in the sovereign, that you can be heard, and have some part in making the decision. You enjoy this freedom in virtue of a law which enfranchises all of us, and so we enjoy this together. Your freedom is realized and defended by this law, and this whether or not you win or lose in any particular decision. This law defines a community, of those whose freedom it realizes/defends together. It defines a collective agency, a people, whose acting together by the law preserves their freedom.

Such is the answer, valid or not, that people have come to accept in democratic societies. We can see right away that it involves their accepting a kind of belonging much stronger than the people in the lecture hall. It is an ongoing collective agency, one the membership in which realizes something very important, a kind of freedom. Insofar as this good is crucial to their identity, they thus identify strongly with this agency, and hence also feel a bond with their co-participants in this agency. It is only an appeal to this kind of membership which can answer the challenge of our imagined individual above, who is pondering whether to support the monarch’s (or general’s) coup in the name of his freedom.
The crucial point here is that, whoever is ultimately right philosophically, it is only insofar as people accept some such answer that the legitimacy principle of popular sovereignty can work to secure their consent. The principle only is effective via this appeal to a strong collective agency. If the identification with this is rejected, the rule of this government seems illegitimate in the eyes of the rejecters, as we see in countless cases with disaffected national minorities. Rule by the people, all right; but we can’t accept rule by this lot, because we aren’t part of their people. This is the inner link between democracy and strong common agency. It follows the logic of the legitimacy principle which underlies democratic regimes. They fail to generate this identity at their peril.

This last example points to an important modulation of the appeal to popular sovereignty. In the version I just gave above, the appeal was to what we might call “republican freedom.” It is the one inspired by ancient republics, and which was invoked in the American and French Revolutions. But very soon after, the same appeal began to take on a nationalist form. The attempts to spread the principles of the French Revolution through the force of French arms created a reaction in Germany, Italy, and elsewhere, the sense of not being part of, represented by that sovereign people in the name of which the Revolution was being made and defended. It came to be accepted in many circles that a sovereign people, in order to have the unity needed for collective agency, had already to have an antecedent unity, of culture, history, or (more often in Europe) language. And so behind the political nation, there had to stand a preexisting cultural (sometimes ethnic) nation.

This means that the modern democratic state has generally accepted common purposes, or reference points, the features whereby it can lay claim to being the bulwark of freedom and locus of expression of its citizens. Whether or not these claims are actually founded, the state must be so imagined by its citizens if it is to be legitimate.

So a question can arise for the modern state for which there is no analogue in most premodern forms: What/whom is this state for? Whose freedom? Whose expression?
This is the sense in which a modern state has what I want to call a political identity, defined as the generally accepted answer to the “what/whom for?” question. This is distinct from the identities of its members, that is, the reference points, many and varied, which for each of these defines what is important in their lives. There had better be some overlap, of course, if these members are to feel strongly identified with the state; but the identities of individuals and constituent groups will generally be richer and more complex, as well as being often quite different from each other.

The close connection between popular sovereignty, strong cohesion, and political identity can also be shown in another way: the people are supposed to rule; this means that the members of this “people” make up a decision-making unit, a body which takes joint decisions. Moreover, it is supposed to take its decisions through a consensus, or at least a majority, of agents who are deemed equal and autonomous. It is not “democratic” for some citizens to be under the control of others. It might facilitate decision making, but it is not democratically legitimate.

In addition, to form a decision-making unit of the type demanded here, it is not enough for a vote to record the fully formed opinions of all the members. These units must not only decide together, but deliberate together. A democratic state is constantly facing new questions, and in addition aspires to form a consensus on the questions that it has to decide, and not merely to reflect the outcome of diffuse opinions. However, a joint decision emerging from joint deliberation does not merely require everybody to vote according to his or her opinion. It is also necessary that each person’s opinion should have been able to take shape or be reformed in the light of discussion, that is to say by exchange with others.

This necessarily implies a degree of cohesion. To some extent, the members must know one another, listen to one another and understand one another. If they are not acquainted, or if they cannot really understand one another, how can they engage in joint deliberation? This is a matter which concerns the very conditions of legitimacy of democratic states.

If, for example, a subgroup of the “nation” considers that it is not being listened to by the rest, or that they are unable to understand its
point of view, it will immediately consider itself excluded from joint deliberation. Popular sovereignty demands that we should live under laws which derive from such deliberation. Anyone who is excluded can have no part in the decisions which emerge and these consequently lose their legitimacy for him. A subgroup which is not listened to, is in some respects excluded from the “nation,” but by this same token, it is no longer bound by the will of that nation.

For it to function legitimately, a people must thus be so constituted that its members are capable of listening to one another, and effectively do so, or at least that it should come close enough to that condition to ward off possible challenges to its democratic legitimacy from subgroups. In practice, more than that is normally required. It is not enough nowadays for us to be able now to listen to one another. Our states aim to last, so we want an assurance that we shall continue to be able to listen to one another in the future. This demands a certain reciprocal commitment. In practice, a nation can only ensure the stability of its legitimacy if its members are strongly committed to one another by means of their common allegiance to the political community. Moreover, it is the shared consciousness of this commitment which creates confidence in the various subgroups that they will indeed be heard, despite the possible causes for suspicion that are implicit in the differences between these subgroups.

In other words, a modern democratic state demands a “people” with a strong collective identity. Democracy obliges us to show much more solidarity and much more commitment to one another in our joint political project than was demanded by the hierarchical and authoritarian societies of yesteryear. In the good old days of the Austro-Hungarian Empire, the Polish peasant in Galicia could be altogether oblivious of the Hungarian country squire, the bourgeois of Prague or the Viennese worker, without this, in the slightest, threatening the stability of the state. On the contrary: this condition of things only becomes untenable when ideas about popular government start to circulate. This is the moment when subgroups which will not, or cannot, be bound together, start to demand their own states. This is the era of nationalism, of the break-up of empires.

From another angle again, because these societies require strong commitment to do the common work, and because a situation in
which some carried the burdens of participation and others just enjoyed the benefits would be intolerable, free societies require a high level of mutual trust. In other words, they are extremely vulnerable to mistrust on the part of some citizens in relation to others, that the latter are not really assuming their commitments, e.g., that others are not paying their taxes, or are cheating on welfare, or as employers are benefitting from a good labor market without assuming any of the social costs. This kind of mistrust creates extreme tension, and threatens to unravel the whole skein of the mores of commitment which democratic societies need to operate. A continuing and constantly renewed mutual commitment is an essential basis for taking the measures needed to renew this trust.

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So there is a need for common identity. How does this generate exclusion? In a host of possible ways, which we can see illustrated in different circumstances.

1. The most tragic of these circumstances is also the most obvious, where a group which cannot be assimilated to the reigning cohesion is brutally extruded; what we have come today to call “ethnic cleansing.”

But there are other cases where it doesn’t come to such drastic expedients, but where exclusion works all the same against those whose difference threatens the dominant identity. I want to class forced inclusion as a kind of exclusion, which might seem a logical sleight of hand. Thus the Hungarian national movement in the 19th century tried to forcefully assimilate Slovaks and Romanians; the Turks are reluctant to concede that there is a Kurdish minority in their eastern borderlands. This may not seem to constitute exclusion to the minority, but in another clear sense, it amounts to this. It is saying in effect: as you are, or consider yourselves to be, you have no place here; that’s why we are going to make you over.

Or exclusion may take the form of chicanery, as in the old apartheid South Africa, where millions of blacks were denied citizenship, on the grounds that they were really citizens of “homelands,” external to the state.

All these modes of exclusion are motivated by the threat that others represent to the dominant political identity. But this threat
depends on the fact that popular sovereignty is the regnant legitimacy idea of our time. It is hard to sustain a frankly hierarchical society, in which groups are ranged in tiers, with some overtly marked as inferior or subject, as with the millet system of the Ottoman Empire.

It is no accident that the 20th century is the age of ethnic cleansing, starting with the Balkan Wars, extending in that area through the aftermath of the First World War, and then reaching epic proportions in the Second World War, and still continuing—to speak only of Europe.

The democratic age poses new obstacles to coexistence, because it opens a new set of issues which may deeply divide people, those concerning the political identity of the state. In many parts of the Indian subcontinent, for instance, Hindus and Muslims coexisted in conditions of civility, even with a certain degree of syncretism, where later they would fight bitterly. What happened? The explanations often given include the British attempt to divide and rule, or even the British mania for census figures, which first made an issue of who was a majority where.

These factors may have their importance, but clearly what makes them vital is the surrounding situation, in which political identity becomes an issue. As the movement grows to throw off the alien, multinational Empire and to set up a democratic state, the question arises of its political identity. Will it simply be that of the majority? Are we heading for Hindu Raj? Muslims ask for reassurance. Gandhi’s and Nehru’s proposals for a pan-Indian identity don’t satisfy Jinnah. Suspicion grows, demands for guarantees, ultimately separation.

Each side is mobilized to see the other as a political identity threat. This fear can then sometimes be transposed, through mechanisms we have yet to understand, into a threat to life, to which the response is savagery and counter-savagery, and we descend the spiral which has become terribly familiar. Census figures can then be charged with ominous significance, but only because in the age of democracy, being in the majority has decisive importance.

2. Then there is the phenomenon we can sometimes see in immigrant societies with a high degree of historic ethnic unity. The sense of common bond and common commitment has been for so
long bound up with the common language, culture, history, ancestry, and so on, that it is difficult to adjust to a situation where the citizen body includes lots of people of other origins. People feel a certain discomfort with this situation, and this can be reflected in a number of ways.

In one kind of case, the homogeneous society is reluctant to concede citizenship to the outsiders. Germany is the best known example of this, with its third generation Turkish “Gastarbeiter,” whose only fluent language may be German, whose only familiar home is in Frankfurt, but who are still resident aliens.

But there are subtler, and more ambivalent ways in which this discomfort can play out. Perhaps the outsiders automatically acquire citizenship after a standard period of waiting. There even may be an official policy of integrating them, widely agreed on by the members of the “old stock” population. But these are still so used to functioning politically among themselves, that they find it difficult to adjust. Perhaps one might better put it that they don’t quite know how to adjust yet; the new reflexes are difficult to find. For instance, they still discuss policy questions among themselves, in their electronic media and newspapers, as though immigrants were not a party to the debate. They discuss, for instance, how to gain the best advantage for their society of the new arrivals, or how to avoid certain possible negative consequences, but the newcomers are spoken of as “them,” as though they weren’t potential partners in the debate.

This illustrates just what is at stake here. I don’t want to claim that democracy unfailingly leads to exclusion. That would be a counsel of despair, and the situation is far from desperate. I also want to say that there is a drive in modern democracy towards inclusion, in the fact that government should be by all the people. But my point is, that alongside this, there is a standing temptation to exclusion, which arises from the fact that democracies work well when people know each other, trust each other, and feel a sense of commitment towards each other.

The coming of new kinds of people, into the country, or into active citizenship, poses a challenge. The exact content of the mutual understanding, the bases of the mutual trust, and the shape of the mutual commitment, all have to be redefined, reinvented. This is not easy, and there is an understandable temptation to fall back on the
old ways, and deny the problem; either by straight exclusion from citizenship (Germany), or by the perpetuation of “us and them” ways of talking, thinking, doing politics.

And the temptation is the stronger, in that for a transition period, the traditional society may have to forgo certain advantages which came from the tighter cohesion of yore.

3. The cases I’ve been looking at are characterized by the arrival from abroad, or the entry into active citizenship of new people, who have not shared the ethnic-linguistic culture, or else the political culture. But exclusion can also operate along another axis. Just because of the importance of cohesion, and of a common understanding of political culture, democracies have sometimes attempted to force their citizens into a single mold. The “Jacobin” tradition of the French Republic provides the best-known example of this.

Here the strategy is, from the very beginning, to make people over in a rigorous and uncompromising way. Common understanding is reached, and supposedly forever maintained, by a clear definition of what politics is about, and what citizenship entails, and these together define the primary allegiance of citizens. This complex is then vigorously defended against all comers, ideological enemies, slackers, and, when the case arises, immigrants.

The exclusion operates here, not in the first place against certain people already defined as outsiders, but against other ways of being. This formula forbids other ways of living modern citizenship; it castigates as unpatriotic a way of living which would not subordinate other facets of identity to citizenship. In the particular case of France, for instance, a certain solution to the problem of religion in public life was adopted by radical Republicans, one of extrusion, and they have had immense difficulty even imagining that there might be other ways to safeguard the neutrality and comprehensiveness of the French state. Hence the overreaction to Muslim adolescents wearing the head scarf in school.

But the strength of this formula is that it managed for a long time to avoid or at least minimize the other kind of exclusion, that of new arrivals. It still surprises Frenchmen, and others, when they learn from Gérard Noiriel that one French person in four today has at least one grandparent born outside the country. France in this century has
been an immigrant country without thinking of itself as such. The policy of assimilation has hit a barrier with recent waves of Maghrébains, but it worked totally with the Italians, Poles, Czechs, who came between the Wars. These people were never offered the choice, and became indistinguishable from “les Français de souche.”

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A Movement for the Commons?
Peter Levine

Last October, the U.S. Supreme Court heard oral arguments about whether to strike down the Sonny Bono Copyright Extension Term Act. The Bono Act, passed unanimously in memory of the late singer and politician, retroactively extended the length of all existing U.S. copyrights to as much as 120 years from the moment of creation (if the author is a corporation). This was the 11th extension of copyright terms passed in 40 years; plaintiffs charged that it violates the Copyright Clause of the Constitution, which allows Congress to secure monopoly rights over intellectual property “for limited times ... to promote the Progress of Science and useful Arts.” Plaintiffs argued that repeated, retroactive extensions of copyright terms were neither “limited” nor conceivably useful for promoting new creativity.

The lead lawyer for the plaintiffs was Lawrence Lessig, a law professor and prominent advocate of a social arrangement that he calls the “commons.” He was joined in Washington by several fellow travelers, including the Duke law professor James Boyle, who has recently called for a movement in defense of the commons—modeled on environmentalism.

The success of environmentalism has spawned many imitators, but Boyle’s proposal is more plausible than most. A pro-commons movement would have distinguished theorists, chiefly Lessig and Boyle; their fellow lawyer Yochai Benkler of Columbia; the writer David Bollier; and Elinor Ostrom, who is one of the most creative social scientists working today. It would have active support from
such organizations as Public Knowledge, the Media Access Project, the Center for Digital Democracy, the New America Foundation, the Free Software Foundation, the Electronic Frontier Foundation, Consumers Union, and the Berkman Center at Harvard Law School. It would have identifiable enemies—Microsoft, Disney, and AOL-Time Warner—and folk heroes such as Dmitri Sklyarov, a Russian programmer who was jailed for writing software that could be used to read books in the Adobe eBook format without the publisher’s permission. What would a commons movement pursue? In the most general sense, a “commons” is a good or resource that belongs jointly to a collectivity. Its owner can be a village, a nation, or the human race (as in the case of the oceans). Proponents do not use the term to describe for-profit corporations, perhaps because stockholders own alienable shares of the firm—they do not share communal ownership.

There are several ways to manage a jointly owned resource, including the obvious expedient of turning it over to the government. Both the Boston Common and the House of Commons are state properties. But modern enthusiasts of the commons idea are not interested in this approach. They prefer a different—and somewhat paradoxical—method of achieving joint ownership, which is to ban private, exclusive control within a certain domain.

This approach generates an unowned commons. It would be a bad way to manage housing, because we all like to have privacy and exclusive control of our homes—even if we rent. But an unowned commons can work in other areas. One example is the array of books and music that have entered the public domain so that anyone can read, quote, and even reprint them for profit. That is the commons that the Sonny Bono Act threatens.

A different kind of example is the Internet, according to an interesting analysis best argued by Benkler. All the wires and computers and e-mail messages that constitute the Internet are privately owned and fall under someone’s exclusive control. But computers that handle Internet traffic must be programmed to receive any “packet” of information that reaches them and to send that packet unchanged towards its intended recipient. This makes the whole Internet a kind of public thoroughfare. It belongs to us all because it belongs to no one in particular—not even to a state.
Yet another example is any software governed by the General Public License: for example Linux, the increasingly popular operating system. People who use such software enter into a contract that blocks them from asserting private control over the code they have received, or over any software of their own that incorporates it. A related idea is “open source” software—computer code that can easily be read and understood by any programmer who views the program (whereas most software is rendered unintelligible to human beings before it is sold). In theory, open source software can be covered by conventional patents. But it is difficult to prevent people from illicitly copying and imitating open source code, so in practice it is normally given away.

Finally, most early websites formed part of a commons, not because it was illegal to assert copyright over their contents, but because it was difficult to control unauthorized copying, and there was a genially anarchic culture of openness and gift giving on the early Internet. Many people made websites in the expectation (and even the hope) that they would be downloaded, adapted, and imitated. This is the ethos of “hackers,” a subculture with roots in the universities of the 1960s. Northern Californian radical mores had a profound impact on the Internet, as Manuel Cassels has argued.

Proponents believe that a heterogeneous array of goods can be managed as commons. Leading candidates include the oceans and the atmosphere; films, books, and musical scores (after a limited period of copyright protection expires); scientific knowledge; community gardens in major American cities; and the broadcast spectrum. In the rest of this article, I will focus on three particular and interlinked goods that seem especially suitable for management as commons. These goods are software, digital material such as websites, and electronic networks such as the Internet. There is reason to believe that such goods can avoid the “Tragedy of the Commons” that often destroys unowned property. A field of grass becomes less valuable the more cattle are crowded onto it, so entry must be limited. However, a network grows exponentially in value as the number of users increases. (This is Metcalfe’s Law.) Furthermore, a field loses value as cows consume the grass in it, but anyone can copy a digital file without degrading the original at all. Finally, creating a new
pasture requires land and labor, but a new website or program can be built cheaply and easily.

Thus the most promising new forms of commons are all connected to computers. To be sure, the Sonny Bono Act deals directly with materials created before computers were invented. But even old works like Snow White and the Grapes of Wrath can be digitized, and this changes the economic arguments about copyright. Defenders of the Bono Act claim that publishers must retain ownership of old works or else no one will have sufficient incentive to distribute them. For example, venerable publishing houses should be able to profit from their “backlists” of old titles, because this keeps classics in print. But Jonathan Zittrain of the Berkman Center disagrees. “The argument that there must be an economic incentive to publish doesn’t take into account the Net,” he told The New York Times. “The Internet answer is you don’t need [commercial] publishers to bring out cheap editions.” Indeed, the lead plaintiff in the challenge to the Bono Act was an online publisher, Eric Eldred, who posts free classic books on his website.

Proponents make several arguments in favor of the unowned commons as a social form. It is free of bureaucracy and restrictions on individual creativity. It promotes innovation—a point that Lessig mentions on almost every page of his manifesto, The Future of Ideas, often citing economic arguments. It permits tremendous diversity, since anyone in any country can be a creator. It encourages virtues of generosity and openness. And it may support the development of robust communities by giving many people opportunities to contribute actively and cooperatively to a common store of goods. (Communitarians should be interested in this point.)

Protecting an unowned commons may also be a matter of simple justice. Since many unnamed people have usually contributed to an intellectual or cultural good, no one should be able to claim exclusive rights to it unless such monopoly control is absolutely necessary to “promote the progress of the useful arts.” For example, Disney drew the story of Snow White from a cultural commons, European folklore. Therefore, the company has no moral right to the legend. Perhaps it was necessary to let Disney profit from making its 1937 movie version—to provide incentives for more such creativity—but the
details that Disney added to the story (e.g., Sneezy, Grumpy) should soon go back into the public stock from which Snow White herself was drawn. The same can be said about software, which often benefits from heavily subsidized past work in computer science.

If the unowned commons is a great idea, we could expand it. For example, the airwaves that are used to broadcast television and radio messages are national property that the government distributes (free of charge) to private firms for their exclusive use. Modern technology would allow the airwaves to be turned into a kind of Internet instead. Anyone could be a broadcaster, sending labeled packets of data onto the airwaves, and the audience would find what they wanted to see or hear by using search engines. Managed this way, the broadcast spectrum would be an unowned commons. There does not seem to be any technical obstacle to this approach.

But more likely, the new intellectual and cultural commons will contract. Corporations have vainly sought a profitable “business model” for exploiting the Internet, and they increasingly feel that it is hostile territory. Thus Amazon, the online bookseller, has patented its method for ordering goods and will sue anyone for imitating it. E-Bay has taken a rival auction company to court for investigating the prices in the E-Bay site, claiming that this constitutes trespass of private property because the rival firm’s electrons entered E-Bay’s computers. And Microsoft struggles against free software. Its most effective method is to imitate some existing free program, add wrinkles of its own, patent the results, and make only its version fully compatible with the Windows operating system.

Meanwhile, cable companies continually fight for the right to direct their Internet customers to special “portals” (entry websites that advertise corporate products); and they try to limit their customers’ ability to publish material on the Internet. The latest trend is to increase connection speeds to websites that have a financial relationship with the Internet service provider (ISP), while subtly slowing down other sites. This means that if your favorite low-budget non-profit seems to have a slow website, your ISP may actually be responsible.

Congress has not helped. Recent legislation has made it illegal to distribute tools that can defeat copy-protections, even if the person
trying to copy something has a legal right to do so. And with the Bono Act, Congress extended the copyright on works like “Steamboat Willie” (1928), lest these gems fall into the public domain.

It sounds like a good time for a movement. Supportive individuals and organizations could band together to demand policies such as the following:

- Looser copyright and patent rights that expire sooner than under present laws.
- Laws requiring providers of Internet connections to offer neutral services so that their customers may freely explore the World Wide Web and easily post their own material. These laws come under the heading of “common carrier” rules.
- Subsidies for software—and also for cultural and scientific material—that is open source and/or distributed under the General Public License. (Governments would not necessarily have to provide these subsidies; support could come instead from universities and foundations.)
- Aggressive antitrust enforcement, aimed not merely at lowering the price of software, but also at preserving values such as widespread creativity and free sharing of material.

These are attractive policies. But before I sign up for a commons movement, I want to raise some cautions.

First, moral arguments in favor of the commons need more development and refinement. Lessig leans heavily on the value of innovation, but some innovations are bad (think of child pornography, online auctions of stolen credit card numbers, privacy violations, massive plagiarism, and gambling sites). When I challenged Lessig on this point, he explained that he was in favor of innovation generally, but since he was not a libertarian he was willing to ban the really bad results. This is a good answer: the genius of liberal society is to permit inventions while prohibiting those that violate an important, articulated principle. But would we really ban mildly harmful innovations, such as free pornography that may now fall more easily into the hands of 12-year-olds? I doubt that we would or should. It is worth noting that we would not have to deal with online pornogra-
phy if Disney and Microsoft ran the Internet. There are advantages as well as disadvantages to corporate control. So before I sign up to participate actively in a pro-commons movement, I want to be persuaded that the benefits of a pro-commons movement outweigh the harms.

Second, a commons may not be subject to beneficial, democratic regulation. Consider the example of privacy. Surveys show that Americans are very concerned about the lack of privacy online. But it is hard to give legal protection to privacy in a commons, because no one can be held responsible for the confidentiality of e-mails that pass through unowned networks. A closed, corporate communications network like the old Bell Telephone system could be rendered private by act of Congress or court order; not so the Internet. If there is software that can intercept e-mails, it will be used in a commons. Some technologists note that we can protect our privacy by encrypting our own e-mails. But then even terrorists and criminals can hide their communications from the state. We need legislation to protect online privacy—with important exceptions. However, such legislation requires a level of control that is hard to achieve in an unowned commons.

Inequality is a third reason to worry about the commons movement. In my view, ordinary people need powerful, disciplined organizations to represent their interests. But the traditional mass-based organizations have not fared well in the digital age. As Lawrence Grossman wrote in The Electronic Republic (1996), “The big losers ... are the traditional institutions that have served as the main intermediaries between government and its citizens—the political parties, labor unions, civic associations, even the commentators and correspondents in the mainstream press.” (One might add religious denominations to his list.) Their decline began decades ago and has many causes, but the Internet commons poses additional challenges for them. For example, in the past the parties could buy themselves prominence, but today the main websites of the Democratic and Republican parties are inconsequential among all the other political sites built by narrow interests and private citizens.

A digital commons is beneficial for individuals who have appropriate skills or enough capital to buy services. To be sure, some
successful Internet entrepreneurs began from disadvantaged positions as immigrants and adolescents. But the fact remains that most people lack the ability to create software or web content. They might be better off if a few massive, popularly based institutions dominated media and politics, but that is the opposite of a commons.

I have one more concern about the nascent commons movement. The last thing we need is another “movement” that consists of many Washington-based organizations with no active, participating, grassroots constituency. But it will be extremely difficult, I believe, to mobilize mass support for the unowned commons, since the issues are complex and technical; the benefits are diffuse and often speculative; and the main opponents are organized, motivated, and rich.

The commons movement did not need a grassroots base to reach the Supreme Court. All one requires for successful litigation is a team of pro bono (but in this case anti-Bono) lawyers and one client who can show harm. The copyright term extension act was a golden opportunity for the commons movement, because the text of the Constitution itself seems to bar private ownership of materials created in the distant past.

However, a constitutional strategy cannot defend other parts of the digital commons, such as open source software. And even in the Bono Act case, the plaintiffs lost, 7-2, when the Supreme Court decided to defer to Congress. I believe that the Court interpreted the Copyright Clause of the U.S. Constitution too cautiously. However, as a general practice, courts cannot—and should not—be the main protector of a commons. It is undemocratic and unsustainable to count on appointed legal experts to override legislative decisions, except in cases like copyright extension, where an explicit constitutional clause is involved.

Unfortunately, legislatures are likely to make bad decisions about the commons. The Bono Act originally passed Congress without dissent, because all the interests that could employ lobbyists were for it, and no one else noticed. Focused special interests usually beat diffuse public interests in a legislature. This is a version of the Tragedy of the Commons, which predicts that public goods will be degraded—in this case, because of politics. The passage of the Bono Act underlines the need for an active grassroots base.
But where can supporters be found? Some people who favor a commons hope to organize mass support on the conventional left, among citizens who are hostile to corporations. But this approach could easily alienate everyone else—including those who don’t love corporations but who resist a reflexive opposition to their interests. Besides, people on the left have other causes to worry about, and the commons is likely to remain a low priority for them.

Other proponents of a commons movement would like to organize users of free goods, such as college students who share copyrighted music and hackers who trade unauthorized copies of software. Perhaps these people could be persuaded that weaker intellectual-property laws would serve their interests. For me, this strategy raises two problems. First, I think that there should be a balance between the property rights of authors and the freedom of users to copy and share material; but many hackers deny property rights altogether. Second, a movement that sought no-cost music and software would seem excessively consumerist; it would be about saving money, not creating public goods. To address these concerns, the commons movement could look for constructive ways to encourage and protect the creation of intentionally free art, software, and information. The movement would work with willing artists and programmers to help them get their work distributed outside of market systems, while earning a livelihood. This is the approach that Public Knowledge and allied organizations have chosen. I support them, although I doubt that a few artists and counter-cultural programmers will ever make much political headway against Microsoft and AOL-Time Warner—especially since most young people today are strikingly uninterested in political action and difficult to mobilize.

One more strategy has been proposed by “hacktivists” such as Declan McCullagh. McCullagh argues that programmers do not need legal reforms to achieve a commons (which is what “geektivist” organizations such as Public Knowledge advocate). Instead, hackers can simply invent and deploy pro-commons software. For example, no private company has the capacity to stop a hacker from copying and distributing its intellectual property if the hacker uses an “anonymous remailer” that conceals his identity. Similarly, music-sharing networks can be made impervious to regulation. The government forced Napster out of business because it was a company that allowed
people to share stolen music. But courts may not be able to close Gnutella, which is neither a company nor a piece of software, but rather an activity, comparable to sending e-mail. Gnutella users make computer files (mostly music) available for others to copy from their computers. Gnutella cannot be sued, so perhaps it cannot be stopped.

McCullagh may be right that software will create a commons without help from legal reformers. But anarchists have been predicting the triumph of individual freedom for decades, on the assumption that software inevitably undermines laws and corporate control. This is the meaning of the famous hacker slogan, “Information wants to be free.” The actual trend has been just the reverse; Microsoft and AOL have grown steadily more powerful. Besides, a commons built by hackers only looks beneficial if you believe single-mindedly in individual freedom. I would not trust unsupervised “hacktivists” to construct the Internet of the future in ways that protected any values other than liberty (e.g., equity, democracy, security, solidarity, or justice).

Fortunately, there is a different conception of the commons that addresses the moral concerns I’ve raised so far and that also has a promising political strategy. For many centuries, in many European languages, some nonprofit, voluntary associations have been called “commons.” Associations are not unowned goods; their assets are possessed by their members. But if the members of an association think of themselves as serving the public—as trustees of a public good—then they are managing a kind of commons. For example, many members of religious congregations believe that they own the assets of their own denomination (jointly, not severally), and that they must maintain these assets in the interests of humanity. Thus a church, synagogue, or mosque can accurately be called a “commons.” It may demand tithes or dues and give special rights to its major donors. But it is not like a corporation; there is never a quid pro quo of membership for money.

Not all associations are good. (The Mafia is one.) But they have certain powerful advantages over unowned resources such as the oceans and the Internet. Associations can be regulated by a democratic state, since usually they have charters, articles of incorporation, and tax status. Yet they can defend themselves by lobbying and
litigating—in fact, some are powerful political agents. In order to raise money for their activities (political and otherwise), they may demand contributions in return for membership. People are often happy to join because membership provides profound psychological goods, such as solidarity and fellowship. In short, associations have ways of preventing the Tragedy of the Commons.

Thus I believe that we do not have to choose between the Internet as a playground of huge companies and the Internet as an anarchistic, unregulated, unowned commons. A third option is an Internet in which voluntary associations play a much greater role than they have hitherto. Already, many associations generate free material that they donate through websites, e-mail lists, or other technological means. Some are essentially “real-world” organizations that have adopted the Internet; others have formed exclusively online. Some have rules and defined membership lists; others are much looser. In the vast majority of cases, their goal is not to defend or promote a “commons” (a word that they may never use). Their purpose is rather to provide some kind of service to their own members or to the general public, either free or at subsidized rates.

What we need today is a movement that builds more such associations and links them together in defense of their shared interests. If there were a robust network or organized movement connecting nonprofit, voluntary associations that operate online, it would have a huge grassroots constituency and considerable power.

There is some reason to think that nonprofit associations would pursue commons-style regulations if they came together to deliberate about the management of the Internet. After all, nonprofits tend to suffer when copyright and patent rules are highly restrictive. Although they own intellectual property, they mainly want to be able to use other people’s work conveniently and distribute their own ideas as widely and cheaply as possible. Also, their websites can be lost when Internet service providers discriminate in favor of their own financial partners, or when search engines charge for favorable placement. Thus a movement of online associations might choose to fight these developments and other threats to the commons.

However, I would not presume to say in advance what policies the movement would choose to pursue. That would be a decision for
its members to make, based on their experience and values. All I am arguing is that we need an independent, nonprofit, democratic movement that can offer people opportunities to work creatively with the new electronic media, convene deliberations about how the media should be regulated, and then act politically.

There are two dangers to the strategy I advocate. Nonprofits might not have enough in common to gel into a movement; or they might form a robust movement that lobbied in its own self-interest, narrowly defined. For example, the movement might focus on obtaining state subsidies exclusively for its own leading member organizations. These are dangers inherent in any grassroots strategy, and they must be confronted early on by the activists, theorists, and philanthropists who are involved in civic media work. A movement will require coordinating bodies and organizations. These new institutions must have bylaws, charters, and mission statements that commit them to remaining democratic, transparent, and responsive to individual members with diverse views.

At the Universities of Minnesota, Wisconsin, and Maryland, some colleagues and I are trying an experiment. We are working in partnerships with members of our local communities to form democratic associations that create free products such as introductory computer courses, structured online discussions, and websites with searchable lists of local assets, interactive online maps, and news stories. We call these associations “Information Commons.” People join because they want to serve their communities (or because they hope to acquire computer skills), not because they believe in the commons as a social form. Many participants are minority and low-income youth—not the usual constituency for reforming intellectual-property law. Indeed, we are not sure what policies, if any, the Information Commons will decide to pursue. As we encounter practical problems in trying to build public-interest associations, we may decide that we have to take collective political action. Or we may conclude that reform is unnecessary, since the corporate Internet serves us well enough. Our work is modest and only makes sense because many other people also want to forge links among related nonprofit associations that operate online. If these efforts begin to coalesce, we will have a commons movement that I will be proud to join.
Communitarians interested in strong families need to look at corporations through family-tinted glasses, for corporations set the terms within which family life is lived. Today they do so by defining the ideal worker as someone who starts to work in early adulthood and works, full-time and full-force, for 40 years without a break. In the U.S., where we now work longer hours than in any industrialized country—including Japan, which has a word for “death from overwork”—this means an ideal worker will often leave home at 8 a.m. and not return home until 6, 7, or even 8 p.m. In families with young children, ideal workers will rarely see their kids awake.

Few of us feel this is the best way to raise children. A very widespread and uncontroversial notion is that children need and deserve time with their parents—and that ill partners and parents need time and attention as well. We can call this the norm of family care, but it is really more than a norm. As a society, we rely much more heavily on family-delivered care than most other industrialized countries do, for both children and elders.

Work/family conflict is acute in the U.S. because of a fundamental clash: our work system defines the ideal worker as someone without significant family care responsibilities, while our family system relies heavily on family-delivered care. No wonder people feel torn and stressed by the time famine in modern American life: it creates a painful ethical dilemma, as Americans struggle to live up to unattainable ideals in work and family life.
The most common debate associated with this dilemma concerns gender equality in the workplace and children’s best interest. We tend to think of these two issues as competing values, but in fact they pull in the same direction: towards a rethinking of corporate work values. But though our current system is bad for women and worse for children, both these points have been debated and discussed before. Less often noted is the high toll this system extracts on men.

We can tell two stories about men. The first (matched with the triumphant tale of women marching off to paid work) is the triumphant tale of men’s increasing involvement in household work. To tell this common story, you need statistics that start around 1965. If you compare today’s men as a group with men in 1965, you will find that today’s men do a lot more. Compared to what their fathers did—virtually none—men today do a lot of family work.

If we look at what’s happened since 1985, a different story emerges. Men’s household contributions have increased only marginally. The triumphalist picture fades, and we are staring at what Arlie Hochschild calls the “stalled revolution.”

Why? Are men just pigs, hogging leisure (of which they enjoy many more hours than women) and dragging their feet to avoid cleaning toilets and changing diapers? Some are. But others aren’t. To understand the stall, we need a close and empathetic look at gender pressures on men.

All too often, we still find “masculinity measured by the size of a paycheck,” to quote an early male feminist of the 1970s. Men hear the message that women want them to take more responsibility in family life, but many also hear inconsistent messages from wives who eroticize “success.” Most women—and their husbands—still expect men to be the breadwinner, according to a 1997 study. Along with the message that they should help more at home, many men also feel under pressure to provide the income for the trade-up house and the brand spanking new car.

Gender pressures at home work in concert with gender pressures at work. Beneath a thin veneer of “family friendliness,” many workplaces send the message that a “real man” works long hours in order to “be a player.” An acquaintance, now retired, asked his buddy, a top
partner at a major law firm who was always complaining about his long hours, why he didn’t just cut back and work two-thirds of the hours and earn $300,000 instead of $500,000. His friend was dumb-founded, and speechless. What he couldn’t explain, my acquaintance suggested, was that he could not cut back because then he wouldn’t be a “player.”

A “player” is one of the big guys, one of the winners—a real man. Someone who is not a player is often felt to be a man diminished. This is as true in blue- as in white-collar contexts. Hochschild describes how factory workers boast of their long hours “as if describing their hairy chests.” The workplace is a key arena for the enactment of masculinity, which is not a biological trait but a social performance.

Before the 19th century, class-based masculinities were inherited: aristocrats’ behavior varied from the regal to the eccentric; it didn’t matter; all were aristocrats. With the rise of middle-class market-based economies and elites, masculinity came to be provisional, earned through success at one’s job. Ever since men started to earn masculinity by being “successful,” masculinity has been closely linked with anxiety. One commentator wrote in 1836 that an American man “is never…so uneasy as when seated by his own fireside; he feels, while conversing with his kindred, that he is making no money. And as for fireside reading…‘he reads no book but his ledger.’”

Why do men talk the talk, but not walk the walk, when it comes to family work? Most men cannot afford to pay the price mothers pay for their commitment to family work. If a woman ceases to perform as an ideal worker, she is still likely to be judged as a good mother. A recent study found that the good mother is still expected to be “always available to her children.” Not so the good father. Indeed, Nick Townsend’s fascinating recent study found that fatherhood is intertwined with being a good provider.

Here’s the rub: not only does a man who draws a line in the sand of the family-hostile corporation, and limits work out of deference to family life, risk being judged as less of a man at work; the supreme irony is that he may, as a consequence, also be judged by many (including perhaps his wife) as less of a man, and less of a father, at home.
What’s the solution? If the family-hostile corporation is the anvil on which masculinity—and family life—are forged, changing the corporate workplace will do far more to improve family life than women can by bargaining one on one in a family-hostile atmosphere. “I don’t think we can promote Bill,” one corporate official told a researcher. “He’s got a wife who is a lawyer, and he is responsible for a lot of the child care. We’re not convinced that he is serious about his career.”

How can we change the family-hostile atmosphere in America’s corporations? Three tools exist: corporate work/life policies, the growing potential for legal liability, and public policy initiatives. To read the promotional literature, corporate work/life policies already have made corporations family-friendly. Most large employers offer family-friendly policies.

All too often, the operative word is “offer.” Reports are widespread that, in all too many workplaces, family-friendly policies are meant to be seen and not used. In a recent poll, 63 percent of employers said that men should not take any parental leave. Those who don’t get the message, and have the audacity to work part-time or to compress workweeks (typically by squeezing a 40-hour week into four working days), telecommute, job share (where two people share one job), or use other flexible work arrangements (FWAs) suffer from stigma, schedule creep, or both.

Schedule creep occurs primarily when part-time workers find their hours creeping back up towards full time, and may end up working full-time hours for part-time pay. Not surprisingly, high attrition often results. Also fueling high attrition is the tendency for the use of FWAs to be linked with stigma, which occurs whenever FWAs are implemented in a corporate culture that continues to measure work commitment through “face time”: long hours at the office rather than productivity.

The PAR Project of Washington, D.C. (which I co-direct with Cynthia Calvert) found that it is often hard for employers to tell whether their family-friendly policies are marred by stigma. PAR found a gaping communication gap: one firm’s managing partner praised its part-time policy as “one of the best in the state,” while lawyers in his firm, earlier in the day, had told PAR that they felt so...
stigmatized that they put an “L” (for loser) on their foreheads when they met each other in the library.

To help employers bridge the communication gap, PAR developed a simple, objective test to give employers a quick and dirty sense of whether their family-friendly policies are usable and effective. Using six simple objective measures, employers can get a quick read on whether their policies are up to par. (The “PAR Usability Test,” and the PAR final report, are available on the web at www.pardc.org.) The key measures include usage rate, broken down by sex; schedule creep; comparative promotion rates of people on flexible and standard schedules; comparative attrition rates; and comparative quality of assignments. One telling measure of whether a policy is truly usable is whether men use it, given that few men will use a policy associated with stigma (for all the reasons related to masculinity discussed above).

PAR also gathered best practices that were already in use. I will list only four:

1. **The principle of proportionality**

   A fair FWA offers equal pay, benefits, training, and advancement for equal work, regardless of schedule, and proportional pay, benefits, training, and advancement for part-time work. Many (though by no means all) employers now offer proportional pay and benefits; far fewer offer proportional training, bonuses, and advancement. Failure to observe the principle of proportionality may, in certain contexts, open an employer up to an Equal Pay Act suit.

2. **Accountability**

   An employer who is serious about creating a family-friendly workplace will assess how effectively supervisors implement FWAs as part of their performance review, and tie effective supervision to compensation. If there is truly a business case for implementing an effective policy—and there is, as will be discussed below—then a supervisor who undercuts the policy is costing the employer money. The model here is the law firm of Pillsbury Winthrop LLP. Says Chair and CEO Mary Cranston,
“We make sure all the young women know that [nonsupport for supervisors of FWAs] is not acceptable—if there is a problem, they should let me or [the head of HR] know. We just have no patience for that.” Compensation is affected by “regretted losses” of valued employees.

3. Universality

A policy used only by mothers of young children will not only turn into a stigmatized mommy track; it also will likely produce a backlash among workers without children. The consulting firm Deloitte & Touche does not even ask on the forms filled out by both the employee and the supervisor why the FWA is being sought. If the proposed schedule meets the employer’s business needs, the employee’s reason for wanting it does not matter; if the proposal does not effectively address business needs, no FWA proposal will win approval in any event.

4. Let the sun shine in

An effective policy ends the series of secret side deals that comprise most employers’ FWAs today. The best model is the accounting firm of Ernst & Young, which gathered together information about roughly 500 FWAs and put a description of each arrangement, along with the contact information of the people using it, on the desktop of all E & Y computers, accessed by means of a message from the CEO expressing unqualified support for the policy.

Why should an employer go to all this trouble? Two basic reasons. The first is the “business case”: the fact that family-friendly workplaces help the bottom line—in sharp contradiction to the accepted wisdom that “part-time costs us money.”

The first element of the business case is that effective FWAs enhance recruiting and reduce attrition. Recall that few mothers work a 50-hour week: that means that an employer who insists on a rigid and outdated ideal worker schedule will exclude half the pool of talent in many fields. Choosing and promoting people based not on the quality of their work but on what schedule they can keep makes no business sense—and may give rise to legal problems, given that the disproportionately excluded group is women.
Effective FWAs also reduce attrition. Offering only one rigid and outdated ideal worker schedule will mean that an employer will lose many women after they have children; some men will also leave for similar reasons. Attrition is very expensive: experts place the cost of replacing an employee at between 75 percent and 150 percent of salary. Costs include expenses related to the departing employee, including lost productivity, lost training, lost knowledge and contacts, lost customers or clients the departing employee will take with her, and the costs of stopping payroll. Attrition expenses also include new hire costs, including recruiting, advertising, and headhunter fees, referral and signing bonuses, moving expenses, training costs, and lost productivity, due both to time spent on new hire interviews, and allowing the new hire to get up to speed.

In addition to the costs associated with recruitment and retention, effective FWAs may also reduce absenteeism, as the employee schedules appointments during nonwork hours; improve productivity, as when a hotel housekeeper learns to make up rooms more quickly; and, improve quality control due to improved retention of tried-and-true employees.

The two large accounting firms that have implemented best-practices FWAs have each reported savings of up to $20 million in a single year. This is one reason why employers need to implement usable and effective FWAs.

The second reason is that employers who insist on defining the ideal worker in a rigid and outdated way may, in some circumstances, face legal liability. Mothers, and some fathers, have begun to sue when they feel they have been unfairly treated on the job due to family care responsibilities. Some are winning. A recent article in the Harvard Women’s Law Journal documents over 20 cases where family caregivers, caring for elders and children, have sued successfully, using over a dozen legal theories. Substantial recoveries and settlements have been reported: $625,000 in one case; $667,000 in another; over $11 million in a third. (More information also is available on the web at www.wcl.american.edu, The New Glass Ceiling.) The growing potential for legal liability may help employers focus on the long-
term economic benefits of effective FWAs, helping them to look beyond the Enron-style, check-your-ethics-at-the-office-door, as well as the short-sighted inflate-profits-for-the-quarterly-report thinking, which tend to plague American business.

Yet even the most enlightened businesses are recognizing that government as well as business has a role to play in helping workers reconcile their ideals at home with their ideals at work, as is evidenced by the new Corporate Voices for Working Families, an initiative designed to mobilize voices in the business community to work for family-friendly public policy. Far-seeing corporations are recognizing that high-quality, government-subsidized early childhood education is needed so that employees can get to, and stay at, work.

We also need to set certain minimum standards: in Europe, for example, one EU directive forbids discrimination against workers with family responsibilities; another forbids discrimination against part-time workers. The U.S. is far behind not only with respect to the provision of high-quality, socially supported child care and short-term family leaves (including paid family and medical leave and paid sick leave). We also have virtually no public policy initiatives to address the need for workplace flexibility during the nearly 20-year period it takes to raise a child (other than Republican-sponsored “comp time” legislation, which would make matters worse by decreasing the cost to employers of overtime.) One important model for the U.S. is the District of Columbia statute that forbids discrimination against people with family responsibilities. States could simply add a new category to the definitions section of their basic antidiscrimination or human rights statutes. Another important model, although unions are divided on the issue, is part-time equity, supported by nearly 84 percent of women, according to a recent poll by Celinda Lake.

Public policy is important, from the corporate side, because enlightened business people are becoming increasingly aware that parents need good child care in order to be reliable workers. Public policy is important for parents because less privileged workers are much less likely to have access to FWAs than are managers and
professionals. And it is important for communitarians, whose commitment to strong families should place work/family public policy high on their domestic agenda.
On May 14, 1992, mourners gathered at the Morningstar Baptist Church in Boston’s impoverished Mattapan neighborhood to pay their last respects to Robert Odom, a murdered gang member lying in wake. But as Jerome Brunson approached Odom’s coffin, a group of gang members barged into the church, attacking Brunson and nearly stabbing him to death. The event stunned Boston’s black clergy and served as a catalyst for the Ten Point Coalition (TPC), a faith-based approach to violence prevention in the inner-city spearheaded by Boston pastors Jeffrey Brown, Ray Hammond, and Eugene Rivers.

The Ten Point program called for religious leaders to take to the streets and engage in one-on-one evangelism with drug traffickers, with the goal of helping them develop work skills or get into college. It called upon missionaries to serve as advocates in juvenile courts. Congregations adopted gangs and transformed churches into sanctuaries for at-risk children. The ambitious plan also called for churches to run neighborhood watches and open rape crisis centers with services for battered women. More controversially, religious leaders agreed to inform police of children whom they deemed a threat to community peace. By targeting the most dangerous youths and pointing them out to police, Ten Point did in fact contribute to the incarceration of young black men from their own community. Yet, as religious leaders, the pastors were in a unique position to tell gang members “we don’t want to do your funeral.” To many pastors,
seeing young men in a cell rather than a coffin was easier to stomach. By serving as a bridge between the largely white police force and the black communities of Dorchester, Roxbury, and Mattapan, TPC defused much of the tension and distrust that had developed between black residents and police officers over the years. The law enforcement community played an important role as well. Events that would have provoked racial polarization a few years before were resolved cooperatively: police promised thorough investigations of brutality cases rather than ignoring the demands of black leaders. Positive relationships developed between black church officials and police and probation officers. As a result, law enforcement officials were able to operate with a new sense of legitimacy in communities that had previously seen them as an occupying force, making it far easier for them to implement new programs aimed at reducing gang activity. Given Boston’s history of violent racial confrontation—namely the busing crisis of the 1970s—this newly forged alliance was no small accomplishment.

More than a decade after the bloody funeral of Robert Odom at Morningstar Baptist Church, the TPC has gained a nationwide following. Offshoots have been implemented in Memphis, Tulsa, Indianapolis, and numerous other cities. Eugene Rivers is on Karl Rove’s Rolodex, and faith-based initiatives have the ear of the White House. Yet despite a stunning drop in youth homicides in the late 1990s, violence in Boston has not disappeared. And the day-to-day operations of TPC have been anything but smooth. Leadership battles have plagued the Boston TPC, and have on several occasions erupted into public view. Harvard academics have called into question whether the so-called Boston Miracle can be attributed to clergy intervention or whether it was in fact the result of a new interagency law enforcement strategy. And TPC replications throughout the country have faced similar challenges, as leadership scuffles, residual community-police tensions, and funding shortages put hurdles in their path. Eleven years into this much-heralded communitarian experiment, there are more questions than answers. Can clergy-police partnerships reduce violence independent of other interventions? How can Ten Point programs be implemented without becoming embroiled in ugly power struggles? And do the “ten points” coined in Boston actually work in other cities with different histories and present-day challenges?
Did Ten Point Stop the Violence?

Prior to 1992, clergy efforts to prevent youth violence were patchy at best, scattered across the city and lacking in coordination. But the Morning Star incident shocked black church leaders into forming a unified front. Boston’s youth homicide rate had hit an all-time high of 62, and police relations with black communities were dismal. The early to mid-1990s was also a time of widespread hysteria about juvenile violence. Reverend Rivers’s close friend John DiIulio had written in *The American Enterprise* of a coming generation of “superpredators,” a massive cohort of poor inner-city black males who would send crime rates skyrocketing. As a result of the youth crime scare, nearly all 50 states passed legislation making it easier to transfer juvenile offenders to adult courts and adult prisons. And although DiIulio’s predictions turned out to be wildly inaccurate, Boston did have 152 homicides in 1990—many of them involving young black men as both victims and perpetrators—and there was a consensus that something had to be done. The Ten Point Coalition represented an entirely new and untested approach. Its goals were ambitious and the plan resonated with an increasingly desperate law enforcement community that commanded little respect in the communities most plagued by violence.

The launch of TPC also coincided with an unprecedented new program—Operation Night Light—which paired probation officers with police. Prior to 1992, probation officers interacted with kids in their offices and during the day only. The same kid could go home and defy his probation curfew that night with very little to fear in the way of punishment. Due to a lack of coordination between probation and police officers, squad cars would often drive right past an offender not realizing he was in violation of his probation or parole. But Night Light changed all this. Probation officers visited clients at home and at night. They rode along in police cruisers, scanning the streets for violators. Within months, the message had gotten out. “They didn’t know police could talk to probation,” says a Boston law enforcement official involved in Night Light. “Now they know probation isn’t a joke.”

Then in 1996, an interagency collaboration known as Operation Ceasefire came into effect. Much like Ten Point, it began from the
premise that a small, concentrated group of offenders are responsible for the bulk of violence in inner-city neighborhoods. By mobilizing the Boston Police, the ATF, state and federal prosecutors, probation and parole officers, gang outreach workers, and the Harvard researchers who helped design the program, the city aggressively intervened in the most gang-infested neighborhoods with threats of long prison sentences, round-the-clock police and probation surveillance, and targeted arrests. This strong display of authority helped reduce the average monthly homicide rate dramatically in the initial months. In November 1996, for the first time in over a decade, there was not a single murder in the under-24 age group. The success of Operation Ceasefire has ironically given way to a bitter debate in Boston. David Kennedy, a Harvard senior researcher who helped design the Ceasefire intervention, has argued that Ceasefire was far more influential than Ten Point in bringing the violence to a halt.

Writing in Gary Katzmann’s 2002 Brookings Press volume, Securing our Children’s Future, Kennedy lauds the accomplishments of Ceasefire to the point that virtually every other intervention, including Ten Point, is dismissed. “There is no reason to think that everything that came before Ceasefire contributed to violence prevention in the city,” writes Kennedy. “It is worth noting that none of the jurisdictions that have since applied Ceasefire-like interventions, with often quite promising results, have had a history of any of the elements some have deemed essential to Boston’s success: activist clergy, police/probation partnerships, broad public health violence-prevention initiatives or any of the rest.” Kennedy’s Ceasefire-centric interpretation is further elaborated in a September 2001 Department of Justice (DOJ) publication “Reducing Gun Violence: The Boston Gun Project’s Operation Ceasefire.” Written by Kennedy in collaboration with Harvard Kennedy School of Government colleagues Anthony Braga, Anne Piehl, and Elin Waring, the DOJ report relies heavily on statistical data showing a sharp decline in the homicide rate after the Ceasefire launch in May 1996 compared to the mean from 1991-1996.

But the initial post-Ceasefire trend has not held, and homicide rates are once again creeping upward as many violent offenders serve out their sentences and return to the streets. Kennedy blames the spike on the collapse of Ceasefire. In a July 2002 Boston Globe article
that infuriated police and clergy, Kennedy wrote, “Ceasefire participants were soon spending as much time, or more, going to the White House, Congress, other cities, and handling press as they were fighting crime.” Kennedy also attacked as a “myth” the “persistent and dangerous” notion that Ten Point “had stopped the killing.” While Kennedy has been outspoken in questioning the strong claim that Ten Point single-handedly stopped the violence, his written work makes an extremely strong claim for Ceasefire as the sole catalyst for the steep drop in homicides in 1996 and 1997. But is this argument valid?

According to a Boston law enforcement official who has worked closely with both Ten Point and Ceasefire, the Kennedy argument is “self-serving.” Rather than the decline of Ceasefire, the official insists, “They went to jail and came back,” referring to the violent youths arrested in the late 1990s. “The Department of Corrections hasn’t corrected anything...Once they get warehoused, they learn in the university of the prisons how to beat the system when they get out. They go back to their old turf and kids who are there now have better access to available firearms.” According to this official, Ceasefire has simply evolved with the times and many Ceasefire participants were “more than a little peeved at the perceived intellectual leadership of our Harvard partners...it’s intellectually arrogant to think you can come in here and it’s going to stay forever. It’s got to stay liquid. There’s no magic bullet, no cure for all society’s needs.” And these days the returned gang members know that their visibility got them locked up the first time around and therefore they are now going underground.

**Bridging the Police-Community Divide**

Reverend Rivers acknowledges that Ceasefire was a major factor that itself evolved independently from what the black clergy was doing. But, he asks, “had the city not deracialized law enforcement, would Ceasefire have succeeded in a racially polarized context?” This seems to be the central question. While the Ceasefire program showed demonstrable results within months of its implementation, it is highly unlikely that it could have succeeded had Ten Point not laid the groundwork by defusing the long-standing racial tensions between the police department and the black community.”
tion] couldn’t have been Ceasefire because the youth-police relationship was terrible,” says one pastor intimately involved in Ten Point. Without the “honest broker” intermediary role played by the clergy leaders, tensions would have remained insurmountable and any aggressive police intervention would not have gone smoothly.

Reverend Ray Hammond points to three critical events during the 1990s which helped to transform this relationship. In 1989, Carol Stuart was murdered in the mixed neighborhood of Mission Hill. Her husband, Charles Stuart called the police and described the assailant as a black man. Mayor Flynn called in all detectives and a witch-hunt ensued; black men were stopped throughout the city. In the end, Charles Stuart committed suicide and evidence emerged that Stuart had murdered his own wife. Then came the St. Clair Commission report, which meticulously chronicled police misconduct in Boston. Hammond recalls, “We began to recognize that there were a few officers responsible for a large number of the citizens’ complaints. If we could find a way to ally with those trying to do a good job there might be an opportunity.” In 1994, Paul Evans became police commissioner and he proved to be a promising partner. When a botched police raid knocked down the door of the elderly minister Accelyne Williams in 1994, Evans immediately called black community leaders to assure them there would be a full and open investigation. Hours later he was on TV admitting that the police may have made a mistake. Compared to the culture of secrecy and hostility that had prevailed before, this proved to be a turning point. Black religious leaders were willing to work with Evans, often more so than his own police union, which at one point gave him a vote of no confidence.

The role of Ten Point in “deracializing” police-community relations was vital. “Without that, it would have just been Boston race wars,” says Rivers. Taking into account Kennedy’s work, Jenny Berrien and Christopher Winship of Harvard have argued that Ten Point “partially ameliorated” the situation in inner-city Boston by supporting the police in removing violent offenders from the streets and criticizing them in cases of excessive force. This provided law enforcement with “an umbrella of legitimacy” under which they could work effectively in neighborhoods where they had been previously perceived as no better than an occupying army.
At the same time, by criticizing police when they overstepped their bounds, the church leaders maintained respect within their communities for the most part (though Rivers’s house was once targeted in a drive-by shooting). As Hammond puts it, “If you do the right thing we’re going to do everything we can to back you up. If you do the wrong thing, we’re going to do everything we can to blow the whistle.” As a result of this newfound cooperation, when the white prosecutor Paul McLaughlin was murdered by a black gang member in 1995, church leaders actively assisted police in locating the perpetrator within the community, and police refrained from launching an indiscriminate dragnet that would have polarized the city along racial lines. And the positive relationship has continued. In 2002, after a spate of police shootings, black religious and community leaders issued a statement calling for a thorough investigation and praised Police Commissioner Paul Evans’s record of reforms within the police department, which aimed to reduce deadly use of force incidents. In a dramatic sign of changing times, a white police commissioner found himself being defended by a group of black pastors in the face of harsh criticism from the police union. As Rivers quips, “Al Sharpton would never be able to do his number in Boston.”

Cracks in the Foundation

But no sooner than it began, Ten Point found itself hobbled by its own success and the internal disputes that came with it. As the press descended upon Ten Point, Rivers emerged as a spokesman. His rhetorical flair and off-the-cuff remarks made ideal sound-bites for the media hordes. Reverend Hammond, a doctor who gave up his practice to enter the ministry, and Reverend Brown who was more than a decade younger than the others, faded from public view. There were ideological tensions as well; Rivers sought help from left and right and took frequent potshots at the Black intellectual elite, calling Henry Louis Gates’s W.E.B. DuBois institute at Harvard a “Cotton Club on the Charles” and criticized Urban League and NAACP leaders. Having alienated many prominent local black leaders, Rivers began to alienate his partners as well.

As the conflict reached a breaking point in 1997, a division of labor helped defuse the tension. Rivers founded the National Ten Point Leadership Foundation (NTLF) with the hope of spreading the
Ten Point model throughout the country. Reverend Hammond took charge of Boston operations. Soon afterward, Reverend Brown got out himself, shifting his focus to the World Council of Churches where he is spearheading an effort to export the Ten Point strategy to cities such as Rio de Janeiro, Belfast, Durban, and Bogota. Yet despite the division of labor, tensions in Boston still remain. Rivers runs the NTLF out of the Ella J. Baker House in Dorchester, seat of his own Azusa Christian Community and a sanctuary for the neighborhood’s troubled youth. Residue of the leadership battles are still visible as well: Rivers’s NTLF website prominently declares that the Boston TPC is not a member of the NTLF. And in 2001, a youth worker from the Baker House was seen distributing leaflets at one of Hammond’s Boston Ten Point coalition press conferences. The leaflets called into question Hammond’s work and demanded a larger role for Baker House. Calling the squabbling a disgrace, one Boston police officer lamented to the Boston Globe, “…it’s about egos and alliances and one-upmanship.”

These days Rivers is projecting a more mild, conciliatory persona. When discussing replications of Ten Point, Rivers is quick to point out that the leadership issue is one of the major stumbling blocks. Liking the situation to Martin Luther King, Jr.’s relationship with the Southern Christian Leadership Conference in the early days of the civil rights movement, he insists that you need prominent leaders to “bless it and not block it.” Even when an exciting new program comes to town, the excitement it generates may not be enough to overcome long existing divisions within the community. “Every place you go with a sizable black church population, you will find the same problem. The big challenges revolved around getting significant power players to come to an agreement,” says Rivers. Even if large congregations don’t take leadership roles in Ten Point, their blessing is essential. “You need their sanction,” he adds. Otherwise, warns Rivers, “if it doesn’t flop, it’s going to be incredibly difficult, a close to exhausting uphill battle.” Rivers offers the example of Louisville, Kentucky in 1998, where he watched Ten Point fall flat on its face due to a power struggle. “What was contested was who should be the lead point person to convene the first meetings,” recalls Rivers. But Louisville seems to be the exception rather than the rule. NTLF programs have found their way to Indianapolis and Gary, Indiana as well as
Memphis, and Tulsa; and several other cities that have modeled faith-based programs on the original Boston program.

**Exporting Ten Point**

Ten Point replications vary from city to city. Whereas pastors walking the streets in Boston put themselves in contact with gang members, in other automobile-centered cities, walking the streets isn’t as helpful. In Memphis, unlike Boston, clergy got involved at the behest of police, who had never had particularly good relations with the black community despite a substantial black presence on the force. Before bringing the churches on board, the Memphis Police formed a partnership with its rival agency, the County Sheriff’s office. “That should go in the Guinness Book of World Records,” says the Reverend Tommy Sullivan, who heads the Memphis Ten Point Coalition. “Then they went and asked the faith community. That’s a miracle,” he adds. As in the Boston Ceasefire model, Memphis law enforcement gives a stern message: “If you don’t listen, we’ll lock you up.” Sullivan’s program aims to stop kids in trouble with the law from becoming repeat offenders. “They get two messages, one of hope and one of a certainty,” he says. Officially, 35-40 churches participate in street canvassing. Other programs include homework dropoff centers, computer classes, literacy projects, and job training through neighborhood churches. But establishing trust between the two sides hasn’t been easy. Racial profiling is alive and well in Memphis, and many in the black community harbor ill will toward law enforcement agencies. “The church community has been promised and lied to so much that they just don’t trust the police or the attorney general because they’ve been defrauded so much,” says Sullivan. “We’ll never get everybody, but many churches will unite...to try to combat gangs and drugs.”

In Tulsa, Ten Point began with a law enforcement block grant, but ministers were involved from the beginning. The partnership has helped relieve tensions somewhat between police and the black community in Tulsa, according to Tulsa Police Captain Walter Busby, who is African American himself. Nevertheless, mutual suspicions remain. Black officers sued the Tulsa Police Department over the lack of hiring and promotion of minorities. And the same year the U.S. Department of Justice launched an investigation of the Tulsa police
department’s alleged excessive use of force. Unlike the early days of Ten Point in Boston, the focus in Tulsa is largely on an older population. Police asked ministers to visit particular trouble spots, including bars after they closed in the wee hours of the morning on weekend nights. After the intervention of religious leaders, Busby says there was a significant drop in the number of people hanging out at trouble spots. “We saw a drastic reduction in violence,” he adds.

But these days the situation in Boston is changing as well. Reverend Hammond notes that much of the focus is on re-entry programs. Many men in their early and mid-20s have been released and are now returning to their old neighborhoods. “It’s the kids we missed in the 1990s coming back out,” as Hammond puts it. But these days, new gangs have taken over their old turf, and new leadership has taken over their old gangs. Devoting time and resources to this new problem has been challenging for Hammond’s Boston Ten Point Coalition as it tries to continue its original mission of working with young people. The challenge, says Hammond, is “adding this without diminishing our commitment to kids... If we dropped our guard there we’d be paying the price in 2005 and 2006.”

Conclusions

In the 11 years since TPC was established, faith-based violence prevention programs have increasingly come into vogue. The right, fueled by the Bush administration’s rhetoric of compassionate conservatism, has given its blessing. But it remains unclear whether this will go beyond kind words and turn into hard cash. Even so, President Bush’s much-touted faith-based initiatives bill collapsed in the Senate in April, leaving it devoid of any language giving incentives to religious charities. Meanwhile, the left has approached the issue with less enthusiasm, displaying a reflexive aversion to anything involving religion. And while broad efforts to roll back social services and replace them with religious-based charities are disturbing, Ten Point faith-based programs actually fill an essential niche in the American inner city, playing a role that only churches can play effectively, bolstered by their moral authority and deep ties to the community.

In many ways, the Ten Point model has been a victim of its own success. As with any successful program, the media spotlight spawns
power struggles. But if the Ten Point model is to genuinely succeed, egos must be sacrificed for the greater good, whether that involves ministers competing for press attention, police unions questioning their chiefs’ reforms, or academics contesting the effectiveness of various programs. Ten Point’s greatest accomplishment is that it has fostered community improvement by way of forming an unlikely and previously unimaginable partnership between police and black churches. For it to fail as a result of internecine bickering on either side of the newly bridged divide would be unfortunate and ironic, given the progress that has been made. Elsewhere, racial tensions between police and black residents remain, despite the Ten Point plan. What developed naturally in the wake of the Morning Star attack in Boston may not come so easily in other cities. Indeed, the deracialization of police community relations in Boston was largely an unintended consequence of the Ten Point program, yet it is a vital prerequisite for any effective violence prevention strategy. Until police have an “umbrella of legitimacy” in inner-city neighborhoods and black church leaders no longer feel brushed off by the department’s top brass, genuine progress in fighting crime is unlikely to occur.

After 12 years, the Communitarian Platform is again open for endorsement. The text of the platform, a list of previous endorsers (which includes leading intellectuals and public leaders), and a form to sign the platform are available at www.communitariannetwork.org.
Americans concerned about their health care may be forgiven for feeling that we are living in perilous times. A health care system where over 40 million individuals are left without health insurance, where patients fear that the bottom line will take priority over top care, and where people living in inner cities and rural areas can’t easily find a doctor appears to offer few grounds for optimism.

Yet a focus exclusively on health care offers only a partial perspective. The health of the American public has never been better. Infectious diseases that were major killers early last century have largely been eradicated (though, of course, HIV/AIDS remains of grave concern). Just a few generations ago, polio, measles, mumps, and whooping cough struck terror in parents and children; now, they’re a distant nightmare. Infant mortality, although still high compared with other developed countries, has come down rapidly. Over the past 30 years, there has been a 58 percent decline in the number of deaths from heart disease and a 65 percent reduction in deaths from strokes.

The American public has often failed to appreciate remarkable triumphs in health over the past half-century. Even as we work to fix an ailing health care system and condemn the fact that many of our

citizens still suffer from poor health, we should not overlook these quiet victories and the common elements they share. Four elements in particular stand out as critical to success: strong research findings that provide a base upon which policy can be built; committed advocates who can turn their convictions into a crusade; media attention that can take an issue public; and law and regulation that act to protect the public’s health. These four elements reflect a profound change in society’s attitudes and behavior and show that people can and will change for the greater good. In four very different areas—lead, traffic safety, tooth decay, and tobacco—unquestionable improvements in health over many years offer lessons that can illuminate social policy and guidance for addressing the nation’s other health problems.

**Quiet Victory 1: Lead**

While lead-laced paint continues to be a serious health hazard in crumbling inner-city buildings, the single greatest source of this hazardous substance has been gasoline. In 1923, researchers at General Motors discovered that adding tetraethyl lead to gasoline gives cars more zip and increased mileage. Enter leaded gas.

In 1925, the Surgeon General convened a conference at which public health advocates argued that lead was a poison—but lost the debate to executives of the lead, automotive, and chemical industries (“We have an apparent gift of God—tetraethyl lead,” testified Standard Oil’s Frank Howard). The Surgeon General concluded that there were no solid grounds for prohibiting the use of leaded gasoline.

And so matters stood until the 1960s, when a new generation of scientists such as crusading physician Herbert Needleman began challenging the assertion that lead was harmless. Needleman and others revealed that even minuscule amounts of lead could damage children’s nervous systems, lower their IQs, and cause attention deficit and other disorders. Their efforts brought about the Clean Air Act of 1970, which required automakers to reduce emissions of carbon monoxide, hydrocarbons, and other airborne poisons by 90 percent beginning with 1975 model cars. To meet the requirements of the new law, Detroit developed catalytic converters that change harmful pollutants into harmless elements and vapor. Since lead
fouls catalytic converters, unleaded gas had to be used. From 1975 on, lead-free gas pumps appeared in filling stations.

After the Clean Air Act was passed, the Environmental Protection Agency (EPA) proposed regulations establishing the maximum level of lead allowable in gasoline. These were challenged in court by the lead- and petroleum-refining industries. After lengthy delays, the EPA began enforcing standards for lead in gasoline. Over the years, under pressure from environmental activists and over the opposition of the Lead Industries Association and its allies, the EPA ratcheted down the amount of lead permitted in gasoline.

In the anti-regulation climate of the 1980s, a task force headed by Vice President George Bush attempted to roll back the lead standard and increase the amount of lead in gasoline. This mobilized the environmental movement. The Natural Resources Defense Council, the Environmental Defense Fund, Consumers Union, and other activist organizations fought back with legal actions and a large-scale educational campaign about the dangers of leaded gasoline. In congressional hearings, witnesses presented new evidence of the effects of even very low levels of lead on the nervous system of a child.

At about this time, the Centers for Disease Control’s analysis of the second National Health and Nutrition Examination Survey (NHANES) revealed that levels of lead in Americans’ blood had dropped 37 percent between 1976 and 1980, largely because less lead was used in gasoline. In the face of the strong NHANES data, plus all the negative publicity it was receiving, the EPA did not back the Bush task force. Instead of abandoning lead regulation, it toughened the standards.

The 1990 amendments to the Clean Air Act banned the sale, after 1992, of any engine requiring leaded gasoline. Since 1996, an outright ban on the sale of leaded gasoline has been in effect.

The third NHANES, released in 1994, showed even better results than the second. The average blood-lead level had dropped by 78 percent between 1980 and 1991—largely because 99.8 percent of the lead had been removed from gasoline.
Quiet Victory 2: Fluoridation

In 1901, Frederick S. McKay opened a dental practice in Colorado Springs, Colorado. He soon noticed that many of his patients had chocolate-like stains on their teeth. Over the next 40 years, Dr. McKay devoted his life to finding out why some people had what came to be known as “Colorado Brown Stain.”

By 1931, the federal government had gotten involved, in the person of H. Trendley Dean, chief of dentistry for the U.S. Public Health Service. After studying what he termed “fluorosis” for several months, Dean began to suspect that although high levels of fluorine can stain teeth, low levels protected them against cavities, a suspicion held by McKay as well. Dean embarked on a series of surveys, examining children’s teeth and collecting water samples throughout the country. After reviewing dental records from 21 states, Dean concluded, in 1943, that children exposed to 1 part per million fluorine in the water had few or no dental cavities nor did their teeth get stained.

The Public Health Service next began large-scale demonstration trials to test the hypothesis. In January 1945, Grand Rapids, Michigan, became the first community to add fluoride to its drinking water and neighboring Muskegon served as the control community. Trials involving other communities followed shortly after that. The results were dramatic. The studies of the initial fluoridated communities showed cavity reductions on the order of 50 to 70 percent.

Even as the results were coming in, activists were pressuring communities to add fluoride to the water supply. Fifty communities in Wisconsin did so.

Then came the backlash. At the height of the Cold War, opponents fanned hysteria about fluoridation—calling it a Communist plot to poison Americans and spreading tales of dead fish landing on the shores of fluoridated reservoirs. In 1950, Stevens Point, Wisconsin, became the first community to reject fluoridation of the community’s water supply.

Those in favor of fluoridation struck back. The endorsements of the American Dental Association, the American Medical Association, the World Health Organization, and the U.S. Public Health Service
provided persuasive support for the safety of water fluoridation. When opponents of fluoridation took the issue to court, they invariably lost. (In local referendums, opponents have had more success.)

Despite court challenges and contentious local referendums, 145 million Americans live in communities with fluoridated water supplies. Of the 50 largest cities in the United States, 43 have fluoridated water systems. Over the past two decades, cavities in children have dropped significantly. From 1971 to 1974, only 26 percent of children six to seventeen years old had permanent teeth free of cavities; the percentage increased to 35 percent in 1979-1980 and to 54 percent in 1988-1991. In 1988, the American Dental Association reported that half of the school children in the United States had never had a cavity in their permanent teeth.

Quiet Victory 3: Traffic Safety

From the nation’s first automobile fatality, the conventional wisdom was that traffic accidents were the fault of bad or careless drivers, not of the automobile itself. The mantra, repeated incessantly from Detroit, was articulated concisely by Harry Barr, a vice president of General Motors: “We feel our cars are quite safe and reliable...If drivers did everything they should, there wouldn’t be any accidents.”

However, this approach was not universally accepted. The medical profession—particularly physicians who treated crash victims—weighed in. By the mid-1950s, both the American Medical Association and the American College of Surgeons were recommending that automobile manufacturers design their cars for better passenger safety and equip them with safety belts. In 1959, Daniel Patrick Moynihan took the National Safety Council to task for shifting attention towards the behavior of drivers and away from automobile design.

Triggered by concerns about the mounting toll of highway deaths, a Senate subcommittee, chaired by newly elected Connecticut Senator Ribicoff, held hearings on auto safety that began in 1965 and continued into 1966. An intense, single-minded 32-year-old lawyer named Ralph Nader was the star witness. Nader’s book, Unsafe at Any Speed, published in November 1965, lambasted the automobile industry for its lack of concern about safety, singling out General Motors for
selling the Chevrolet Corvair, an automobile produced with a defective and dangerous gas tank. In response, GM hired private detectives to tail Nader and come up with dirt about his personal life.

When this came to light in March 1966, it created a great splash in the media, and Nader became an instant national hero. He used GM’s action as a platform from which to promote auto safety. The publicity surrounding GM’s actions galvanized public opinion and provided the impetus for Congress to pass traffic safety laws that, among other things, established the National Highway Safety Bureau, the precursor of today’s National Highway Traffic Safety Administration, and gave it the authority to set auto safety standards.

Early federal regulations requiring that cars come equipped with padded instrument panels, recessed knobs, collapsible steering columns, and seat belts for all passengers were challenged by automobile manufacturers, on the one hand, as impossible to meet and by consumer safety advocates, on the other, as weak and ineffectual. The battle over seat belts and air bags lasted nearly a decade. Both are now standard equipment in all cars.

In addition to the auto industry, reformers successfully confronted another major impediment to traffic safety: drunk driving. In 1979, Doris Aiken founded Remove Intoxicated Drivers (RID) after a drunk driver ran over and killed a teenager in her hometown. Candy Lightner organized Mothers Against Drunk Driving (MADD) in 1980 after her daughter was run over and killed by a man who had been drinking. MADD and RID, along with SADD (Students Against Drunk Driving), can be credited with creating a grassroots movement that changed the attitude of society towards drunk driving.

Lightner and Aiken built relationships with the media, which responded by regularly featuring the speeches and activities of the anti-drunk driving activists. Chapters of RID, MADD, and SADD formed in communities around the country—lobbying government officials, telling their stories to the media, providing victims’ services, and monitoring the courts.

The effect of this grassroots movement on public policy was catalytic. Between 1981 and 1985 alone, state legislatures passed 478 laws to deter drunk driving. In 1982, Congress passed the Alcohol
Traffic Safety Act, which provided extra funds to states enacting stricter drunk driving laws. To be eligible for the funds, a state had to legislate that a blood alcohol level of .10 percent (reduced to .08 in 2000) was conclusive evidence of drunkenness and that convicted drunk drivers face suspension or revocation of the driver’s license for at least 90 days. Two years later Congress stepped in again and passed a law requiring states to set the minimum drinking age at 21 years or lose some of their federal highway funds. All states complied. Between 1983 and 1993, deaths from alcohol-related crashes dropped by 26 percent.

Safer cars and less drunken driving—along with improved highways, lower speed limits, and better emergency medical services—have sent the nation’s traffic fatality rate plummeting. In 1950, 7.5 people were killed for every 100 million vehicle miles traveled. In 1999, 1.6 people lost their lives per 100 million vehicle miles traveled—a decrease of over 75 percent.

**Quiet Victory 4: Tobacco**

Although some 18th- and 19th-century physicians warned of tobacco’s harmful effects, the scientific community in the United States largely ignored the health problems associated with smoking. As late as 1948, the *Journal of the American Medical Association* wrote, “There does not seem to be any preponderance of evidence that would indicate the abolition of the use of tobacco as a substance contrary to the public health.”

Two years later, the journal published two articles linking cigarette smoking to lung cancer. One found that smokers were twice as likely to develop lung cancer as nonsmokers, and that those who smoked a pack a day or more were *ten times* as likely to contract lung cancer. Excited by the new developments and fed stories by committed tobacco researchers such as Ernst Wynder, an antismoking activist until his death in 1999, the popular press followed up. The jump from arcane research to public awareness first occurred with the article “Cancer by the Carton” in the December 7, 1952, issue of *Readers’ Digest*. In it, the most widely read magazine of the day reported the link between tobacco and lung cancer in language the general public could easily understand.
Several actors, governmental and nongovernmental alike, brought the harmful effects of tobacco to the public’s attention. The surgeon general’s office has consistently sounded the nation’s alarm about dangers of smoking, perhaps most notably in its report of 1964. Less well-known is a report made seven years earlier, in which Surgeon General Leroy Burney made the connection, albeit in more opaque language, stating “prolonged cigarette smoking was a causative factor in the etiology of lung cancer.” During his seven years as surgeon general during the Reagan administration, C. Everett Koop made antismoking the highest priority—also to great media attention. The 1986 surgeon general’s report, *The Health Consequence of Passive Smoking*, awakened the nation to the dangers of secondhand smoke. The 1988 report, based on a review of more than 2,000 studies, concluded that cigarettes contain addictive drugs.

In 1964, just a week after the surgeon general released his report on smoking, the Federal Trade Commission proposed that cigarette packages and advertising carry a strong warning label. Despite industry opposition, Congress passed the Cigarette Labeling and Advertising Act of 1965, requiring that cigarette packs and ads contain a warning label. It was the first of a stream of federal legislation and regulations, passed over heavy lobbying by the tobacco industry, pertaining to smoking, including laws banning cigarette advertising on television and radio, requiring stronger warning labels, and prohibiting smoking on domestic airline flights.

News of the health hazards of tobacco spurred advocates and the formation of advocacy groups. John Banzhaf, a Georgetown University Law Center professor, organized ASH (Action for Smoking and Health), which, as early as 1979, asked the Food and Drug Administration to regulate tobacco as a drug. Stanton Glantz, a professor at the University of California, San Francisco, organized advocacy groups that successfully pushed for strong state and local antismoking measures.

Despite their aversion to controversy, the American Cancer Society, the American Lung Association, and the American Heart Association followed. In 1981, these three mainstream organizations formed the Coalition on Smoking or Health, directed by Matt Myers, a longtime antismoking activist. The American Medical Association,
initially reluctant to join in, eventually became an influential ally through its journal articles and its work to organize antismoking coalitions.

Once the hazards of second-hand smoke became widely known, local and state governments began passing ordinances banning smoking in public places. Victor Crawford, a former Tobacco Institute lobbyist who became an antismoking activist after contracting lung cancer, noted of lobbyists, “We could never win at the local level.”

Lawyers played a role as well. Attorneys for plaintiffs suffering from respiratory diseases brought suits against the tobacco companies that generated considerable publicity. And, of course, the attorneys general from 46 states reached a $206 billion settlement with the tobacco companies in 1998. (The four remaining states reached individual settlements totaling $40 billion.)

The percentage of adult males who smoke dropped steadily from its high point of slightly over 50 percent in 1966 to about 28 percent in 1990—where it has remained since. Women, too, stopped smoking, although not so dramatically. The percentage of adult women who smoke fell from its high of 34 percent in 1966 to 24 percent in 1990, where it, too, has remained more or less steady. Only teenagers are smoking more than previously—the percentage of high school seniors who smoke rose from 19 to 23 percent between 1986 and 1998—which remains a matter of national concern.

A Blueprint for Policy

Cavities, lead poisoning, auto safety, smoking—all stunning successes. These quiet victories are not the result of improved medical technology. They are, rather, the result of social change, and they demonstrate that when the following four elements come together, it is possible to bring about changes in people’s behavior and improve the public’s health.

Element 1: Highly credible scientific evidence, gathered over a long period of time, that is strong enough to persuade policymakers and to withstand attack from those whose financial interests are threatened.
Much of it comes from the kind of medical detective—or epidemiological—work that links illnesses to events. Take tobacco research. Even though researchers did not know how cigarettes cause cancer and other illnesses, they were able to build an overwhelming case that the two are linked. The evidence is so strong and so consistent that the conclusion is inescapable—that smoking causes cancer.

A different kind of medical detection—the federal Nutrition and Health Examination Surveys (NHANES)—demonstrated convincingly that lead levels in the blood had dropped dramatically since the introduction of unleaded gasoline. It gave the EPA the scientific foundation on which to base regulations that eventually eliminated lead from the nation’s gasoline supply. Similarly, well-structured comparative trials provided convincing evidence that small amounts of fluoride added to the water supply reduce cavities.

Element 2: Committed advocates with determination, tenacity, and intellectual toughness over the long haul to turn their conviction into a crusade shared by others.

Solid scientific evidence is the base upon which public health policies are built, but it is not enough. It must get into the public domain, be understood by policymakers, and be reinforced from a variety of sources. Enter the advocates.

Changes in legislation, public attitudes, and behavior have come about, in part, because of the steely determination of a few individuals who are passionately committed to their cause, have the inner resources to withstand the tremendous pressure applied by the industries whose practices they are criticizing, and who continue to fight even at the risk of their professional reputations. People such as Ralph Nader, Candy Lightner, Herbert Needleman, and Matt Myers led their communities in fighting a lackadaisical government bureaucracy, vested interests, and commercial malfeasance. Respected government officials such as C. Everett Koop and H. Trendley Dean, and established associations such as the American Medical Association and the American Cancer Society spoke out on an issue, and made it legitimate and more acceptable to the mainstream media and public.

Element 3: Public awareness, usually generated by extensive media coverage, of a serious threat to health or well-being.
Between television specials, magazine and newspaper articles, and warning labels on cigarette packages, it is hard for Americans not to know that lighting up is dangerous to their health. Says the Advocacy Institute’s Michael Pertschuk, “behind every public health and safety measure enacted in this half century has been a media advocacy campaign to dramatize both the risks and the public policy solution.” Widespread public awareness on drinking and driving, the dangers of lead, among other issues, is causing people to reconsider their lifestyle options and to make choices that will better protect their health and that of their families.

**Element 4:** Law and regulation, including litigation or the threat of it, an indispensable way to focus public attention on health concerns, provide policy direction, allocate money, and set standards that have led to improvement in the public’s health.

Although we live in a time when big government is suspect, few can deny that many federal laws and regulations have vastly improved the public’s health. Contrary to public perception, we do not live wholly in a Wild West of market forces. Laws and regulations have been, and continue to be, the underpinning that protects the health of the public.

Because of the Clean Air Act, the Lead-Based Paint Act, and other federal regulations, lead poisoning has been largely eliminated as a health concern. The same is true of the highway safety laws and federally mandated warning labels on cigarette packs and advertising. The nation’s attitude towards these issues has changed.

These four elements are not the only ones that contribute to health successes; death from cardiovascular disease, for example, has decreased partly because of improved medical treatment. Nor will these four elements invariably bring about success. But they do offer a recipe for social change that has been shown to work and offer the hope that Americans can learn from the past.

As impressive as these victories are, the United States still has a long way to go even to catch up with the rest of the developed world. For all our achievements, we still rank 24th worldwide in measures of national health. Imagine what we could do if social movements against unhealthy foods, physical inactivity, handguns, and HIV
infection could match what movements have achieved in areas such as those we have discussed above. The Food and Drug Administration could decide to regulate the fat content of fast foods or insist on warning labels on packages; communities could pass ordinances requiring that new urban and suburban sites contain walkways or bicycle paths. Without the energy of such movements, the United States will be doomed to suffer from inferior health, no matter how much we invest in basic biomedical research or cutting-edge medical technologies. But if we can combine research, advocacy, media, and law and policy, we can do a great deal to improve Americans’ health.

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No nation has surpassed the United States in placing material well-being at the heart of national identity—or in reconceiving its meaning in the face of the evolution of capitalism. Once idealized (for white men) as full participation in a simple market society of independent, largely rural, petty-producers, the “American Dream” of this people of plenty has been recast over the last century or so as full participation in a complex market society of interdependent, largely suburban, consumers. Hence, the pivotal material site of American citizenship has shifted over the course of its history from the freehold farm to the shopping mall, and freedom from need has become freedom to want.

This transformation is a familiar part of the national story now told by American historians. Its origins lie at least as far back as the late 19th century and the crisis of “overproduction” in an economy no longer tested by the tasks of capital accumulation but by the challenges of finding markets for the prodigious output of its factories and farms. But the take-off period of the “Consumer’s Republic”—both in terms of its social inclusiveness as a reality and its ideological
hegemony as an ideal—lay in the three decades following World War II, and no one has yet told this part of the story better than Lizbeth Cohen.

Cohen begins her story in the 1930s with the emergence of what she terms “citizen consumers,” activists who attempted to put the market power of consumers to work, not only to protect the interests of individual consumers, but also to serve the public interest more generally. Adumbrated in the early years of the century by groups such as the National Consumers League, which urged middle class women to practice “ethical consumption” to improve working conditions for women and children, a “second wave” of organized citizen consumers (also largely women) during the Depression fought to secure representation of consumer interests in New Deal agencies and again to use the coercive force of buying power to remedy social inequities.

World War II witnessed the further development of the role of the citizen consumer. In particular, the Office of Price Administration, assigned the task of controlling wartime inflation, relied heavily on tens of thousands of volunteers, again most of them women, who monitored local markets and successfully kept a lid on prices. But the war also anticipated an important shift in the conception of the consumer’s role in the political economy. Keynesians, who had since the late 1930s exercised a growing influence over economic policy, stressed the significance of aggregate consumption to stability and growth. And during the war, corporate advertisers forecast the post-war emergence of the “purchaser citizen” who would unleash the spending virtuously suppressed in wartime. Virtuously indulged after the war, such spending would simultaneously satisfy private desire and contribute to the public good by promoting widespread prosperity.

This “purchaser citizen” was the ideal type of the Consumer Republic during the 30 years of unprecedented economic growth that followed the war, and the “citizen consumer” receded into the background. As Cohen writes, the Consumer Republic was “an economy, culture, politics built around the promises of mass consumption, both in terms of material life and the more idealistic goals of greater freedom, democracy, and equality” Its accomplishments, she admits,
are undeniable. National output of goods and services redoubled between 1946 and 1970. A home was item one in the shopping cart of the Consumer’s Republic, and homebuilding and homeownership exploded in these years. A quarter of all the homes in the United States in 1960 had been built since 1950, and homeownership increased by 50 percent to 62 percent of Americans. Moreover, these gains were achieved without the need for a divisive (and unlikely) redistribution of income and wealth. Experts spoke glowingly of Pareto optimality, and ordinary Americans relished metaphors of growing pies and boats lifted on a rising tide. “Thrift is now un-American,” Fortune’s William H. Whyte observed in 1956.

But if most Americans fared well in these decades, they did not do so equally. As Cohen says, “Overall, Americans prospered between 1945 and 1975, but the infrastructure erected to deliver that prosperity contained biases that made it more some peoples’ Consumers’ Republic than others.” The heart of Cohen’s book is her detailed account of the “segmentation” of consumer society and culture along lines of class, gender, and race. Here federal policy played an important role, and her analysis of the relative advantages reaped by white, middle-class men from the GI Bill and tax law is superb—as is her treatment of discrimination in private credit markets.

The two exemplary structures of the built-in environment of the Consumers’ Republic were the suburban subdivision and the suburban shopping center, and Cohen considers the growth of both in full. Although early postwar suburbs displayed a measure of class heterogeneity, here too class and racial segmentation and discrimination quickly prevailed. Aided and abetted by discriminatory federal loan policies, realtors and homeowners worked hard to ensure that suburban consumers would live only with those like themselves. Skillfully deploying exclusionary zoning, wealthier suburbanites provided themselves with lower property taxes, cheaper government, and better schools than their urban (increasingly black) neighbors. Shopping centers sprang up in suburbs in which those who worked in the stores were unwelcome in the area after business hours, and could not afford to live there anyway.

The Consumers’ Republic did generate its own brand of dissent, which more or less amounted to a demand for an equal opportunity
to participate in its rituals. Here Cohen is particularly attentive to African-American protest, emphasizing the degree to which the civil rights movement focused on sites—lunch counters, department stores, recreational facilities, and so forth—in which black money was unwelcome. She observes as well that the race riots of the 1960s not only targeted white storeowners who exploited black consumers, but they also provided black looters with the opportunity, as the then Leroi Jones said, to steal the swag of consumer society otherwise denied them. “Take their lives if need be,” he wrote, “but get what you want what you need” Cohen also notes that insofar as protest succeeded in securing inclusion in white markets, it ironically often hurt black businesses that had been built on serving customers ignored or cheated by white merchants, and it did nothing to address disparities in income and wealth.

The late 1960s saw a resurgence of the “citizen consumer” as Ralph Nader and other reform elites led a “third wave” of activism aiming to protect the health and safety of consumers, and Cohen gives it due consideration. Hereafter, though, her narrative dribbles off, though she rightly insists that the consumer has remained at the center of American political and cultural discourse despite the collapse of postwar prosperity in the 1970s. Appeals to “purchaser citizens” are as fresh as the latest Republican tax cut, and have served the American right well in its campaign to prove that redistribution of wealth can be done in the United States, if only upwardly. “Citizen consumers” fight on, as is evident in the recent anti-sweatshop movement on college campuses. And market segmentation proceeds apace, even welcoming within its confines the practitioners of “identity politics”—providing feminists and multiculturalists with a market niche and the relevant gear, while at the same time, as Cohen wryly writes, “existing power relations were rarely altered”

A Consumer’s Republic is deeply researched and persuasively argued. Throughout, Cohen nicely combines analysis cast at the national level with more fine-grained consideration of the particulars of the case of New Jersey, the most suburbanized of American states (along with Connecticut) and her own place of (suburban) birth. Though its arguments are seldom original and the book thus lacks the eye-opening force of her earlier study of the making of CIO politics and culture in Depression Chicago, Making a New Deal, her book will
henceforth be the place to begin a consideration of postwar consumer society.

Which is not to say it should end here. While it is perhaps unwelcome to criticize an already long book for its omissions, I was struck by Cohen’s neglect of the contribution made to the infrastructure of the Consumers’ Republic of American hegemony in the postwar international economy; it was, after all, a republic that ran on cheap oil. Also, one would not know from Cohen’s account that the Consumers’ Republic elicited dissent not only from those anxious to be a part of it, but also from those who questioned its premises. Particularly important here, I would say, were environmentalists who sought not just to protect consumers but to question the sustainability of a consumer society that regarded nature only as a source of human bounty.

As is perhaps apparent, Cohen views the Consumer Republic through her left eye. Her own politics are social democratic. She laments the subordination of the citizen consumer to the purchaser citizen, and she wishes American consumer politics had posed more of a challenge to the class inequities of capitalism, as well as racial and gender discrimination than it has. Like many American social democrats, she casts an envious eye at Sweden where the state insisted that people “give up the right to choose their own neighbors.”

Very occasionally, Cohen seems troubled by a concern less social democratic than civic republican, “the confluence of political citizen and economic consumer,” a confluence that marks her “citizen consumer” heroes as well as her less heroic “purchaser citizens.” She worries over the erosion of public space in which citizens find themselves “deliberating for the general good” But she does not really put her finger on the peculiarity of what more generally might be termed “citizens as consumers,” a peculiarity that gives this phrase the ring of an oxymoron.

This peculiarity, I would suggest, is that such citizens need not act—either as citizen consumers or purchaser citizens—with other citizens. To be effective, such citizens, particularly citizen consumers, must act alike, but they need not act together. When citizenship takes the form of consumption, citizens form a market, but not a community—seeking perhaps to aggregate their preferences, but never need-
ing to deliberate together. Indeed, with the rise of Internet commerce and websites ranking manufacturers for citizen consumers concerned about matters such as pollution, animal research, and sweatshop labor, they need not even see other citizens. Consumer politics thins out the common life of citizens to near invisibility.

Cohen seems to sense this thinness and to regret it, but she throws up her hands at the end of her book and calls for a politics no more radical than a more egalitarian consumerism. “It is unrealistic,” she says, “to assume we can reverse a century-long trend of entwined citizenship and consumership.” It is indeed unrealistic to assume as much (though no more so, I would say, than to assume we can build a Swedish America). But to assume we cannot forge a more robust democratic republic than a Consumers’ Republic is to assure that we will not. And, in any case, any assumption one way or another (as distinct from any hope) should rest uneasy on the mind of a historian as alert to contingency as Cohen so evidently is.

Citizenship and Religious Education

Steve Jones


This collection of essays focuses on three interrelated sets of issues: the role of education “in promoting a healthy democracy” and in strengthening social capital; the place in American society for the “common school”; and, the role of religion in “fostering a robust civil society,” especially if that role were to be enhanced through government accommodation of religious preferences in education. It is the third issue that receives the bulk of attention in this book. For readers interested in the contentious issue of the place of religion in education in particular, and civil society in general, this book offers balanced and intriguing perspectives. Before addressing the specific strengths
and weaknesses of this collection, I provide a brief summary of the content of the volume with respect to the three issues noted above.

The essays that consider the interplay between education and social capital raise the perspective that school reform in and of itself will do little to improve schools. Superimposing successful educational policies in communities lacking strong social capital will not necessarily produce the desired educational outcomes. The findings of these essays demonstrate that educational reforms should not occur in isolation, but should be part of broader efforts to build community and shore up social capital.

Three authors, Diane Ravitch, Nathan Glazer, and Mark Holmes, specifically address the concept of the common school. However, they disagree as to whether that concept has any contemporary relevance. Whereas Ravitch believes that the common school still has a place in American public education, Glazer and Holmes argue that the ability of public schools to fulfill the historic function of the common school to promote a common civic identity based on a national culture and a widely held set of values is difficult, if not impossible, in contemporary American society.

The majority of the book is devoted to the issues of the interplay between private religion, public education, and school choice. Collectively, the essays in this collection provide a balanced approach to these issues. Almost all of the essays addressing this issue favor some mechanism for state support of private schools. Still, taken collectively, these essays weigh the potential costs and benefits of government aid. Potential benefits include greater parental choice, improved educational performance, and curricula grounded in unambiguous moral values. On the other hand, the costs include the potential for greater governmental intrusion resulting in the diminution of the religious identity of faith-based schools and the possibility that some faith-based schools will not embrace the values of pluralism and tolerance.

Individual essays within this collection also deserve recommendation. Diane Ravitch’s opening essay provides a brief, interesting history of the thinking that has contributed to our notions of the common school and the democratic function of public education by exploring the sometimes complementary and sometimes contradic-
tory views on public education represented in the positions of Thomas Jefferson, Noah Webster, Horace Mann, John Dewey, and Robert Hutchins. It is always worthwhile to take stock of the foundations of our ideas, and this essay provides the reader with the historical background needed to assess the perspectives of the essays that follow.

The essays by Mark Holmes and Rosemary Salomone present persuasive approaches to the challenge of fostering shared, core values through public education, while respecting the diversity of the religious and cultural beliefs of parents. Holmes, in “Education and Citizenship in an Age of Pluralism,” probably the most cogent essay of this volume, argues that the ethnic and religious diversity of contemporary American society make it difficult for public schools to effectively teach a common, values-based curriculum grounded in a shared national narrative and “traditional” Judeo-Christian morality. Yet, he argues that democratic education is still a necessary function for schools, particularly in our diverse society. To that end, he proposes a model of democratic education based on a fixed floor and a moveable ceiling. At minimum, an appropriate model of democratic education should be based on a common language and moral prohibitions, such as the teaching of hatred and ethnic and/or religious superiority. This fixed floor would be required of both private and public schools. The moveable ceiling would be obtained through the principle of equity, which Holmes defines as “universal access to a variety of available schools,” a position that is echoed by Joseph P. Viteritti in his concluding essay.

Salomone’s essay, “Common Education and the Democratic Ideal,” deals with two historic Supreme Court cases, Wisconsin v. Yoder and Mozert v. Hawkins County Board of Education. Both cases addressed the issue of accommodation, the degree to which public authorities should accommodate the religious views of parents with respect to their children’s education. Salomone uses these cases as frames for uncovering the tensions between the need to develop consensus on core values while respecting cultural and religious diversity. The resolution to these tensions, Salomone argues, is the creation of a “common education” based on “shared values, principles, and political commitments” while allowing for parental choice within the framework of common educational standards. In this
respect, Salomone’s arguments echo those of Holmes and Amitai Etzioni in *The Spirit of Community* and *The Monochrome Society*. Readers who are interested in the role of schools in fostering “pluralism-within-unity” while avoiding the rhetorical battles of the culture wars will be particularly pleased with the intelligent, balanced arguments of these writers.

Finally, Joseph Viteritti’s concluding essay, “Risking Choice, Redressing Inequality,” offers one of the most compelling arguments in favor of state support for private education that opponents to school vouchers and other choice policies will find difficult to counter. Rather than an accommodationist argument based on the rights of parents to educate their children according to a particular worldview, Viteritti makes the argument that governmental support of parental choice is justified on the grounds of equality and as a promising means of closing the achievement gap between whites and ethnic minorities. Viteritti’s arguments are given even more weight by the Supreme Court’s recent ruling in favor of voucher programs that aim to redress the types of inequalities that his essay addresses.

In spite of the strengths of some of the individual essays, the book, on the whole, was disappointing. The biggest problem is that the title of the book and the introductory essay by the editors raise the reader’s expectations that the works will focus on civic or democratic education. By the time one reaches William Damon’s essay, it is clear that the focus has more to do with highlighting the failures of public education and promoting religious education than it does with identifying particular curriculum standards and pedagogical techniques that will improve students’ civic knowledge and participation. Indeed, what is most unsatisfying is not particularly what is included, but what is omitted. There is no mention of community service and service-learning programs in schools, although there is abundant research on the effect of such programs on students’ moral and civic development. Nor is there any mention of curriculum standards for civic education, although the Center for Civic Education’s National Standards for Civics and Government have been in existence since 1994.

Another weakness with the work as a whole is that the authors supporting religious accommodation seem to believe that religious
pluralism strengthens American democracy, while they portray cultural and ethnic pluralism as an impediment, if not a direct threat, to the revitalization of democratic life. For some reason, which is never made clear, religious accommodation fosters “civic assimilation,” but cultural accommodation, through multicultural and/or bilingual education programs, undermines civic assimilation. As Ravitch and Viteritti write in their introductory essay:

The rise of multiculturalism as an ideology directly conflicted with the public school’s once-prized mission of civic assimilation. As the public schools shifted from being the central agency for promoting civic understanding to being an agency for sponsoring racial, ethnic, and cultural identity, faith in the public school ideal weakened. Because Americans have typically believed that their public schools played a key role in building the moral foundation for a robust democracy, there were inevitably questions about whether the schools’ faltering commitment to civic assimilation was in some way connected to the decline of our civic spirit.

This position seems contradictory to me. If parents should be allowed to educate their children according to the values of a particular religious identity, at the state’s expense, why then should they not be allowed to educate their children according to the values of a particular ethnic or cultural identity? Unfortunately, this contradiction cannot be addressed because it is not recognized.

In sum, this book is a collection of essays about moral and religious education masquerading as a book about civic education. Readers of this journal will find individual essays that address issues of concern to communitarians, such as the connections between strong communities and strong schools (Putnam and Grant), and the challenges of promoting core, shared values while respecting religious, cultural, and ethnic diversity (Holmes, Salomone, and Elshtain). In addition, a few of the essays make compelling arguments in favor of school choice (Salomone and Viteritti). However, the majority of the essays taken collectively advocate religious accommodation without making convincing arguments as to how accommodation will actually translate into “making good citizens.” Consequently, for readers who are interested in the nuts and bolts of civic education, this book will have little to offer.
Small, by itself, is not beautiful. Small is most beautiful when connected to big. Entering the debate about the apparent decline in American civic involvement, Theda Skocpol argues that we need to look at a national scale, not limit our horizons to small, local, stand-alone, face-to-face groups. Historically, the fuel for civic involvement in the U.S. has come, she contends, from local groups that are chapters of national federations—national organizations like the Foreign Legion, Knights of Columbus, and Rotary, or clubs named after animals, like the Moose, Elks, and Lions. These groups have involved more Americans than any others, and they have not only been about wearing funny hats and enacting hokey rituals. While most of us Americans pine for the lost coziness and intimacy of local neighborhoods and local civic groups, Skocpol says that many Americans joined the nationally federated animal clubs, Knights of Columbus, and others, precisely because they sought a release from the smallness of local life. For the first half of the 1900s, people were eager to join those clubs, she says, because they sparked members’ imaginations, and made them feel powerful, by connecting them to something that was not just local, but also stretched across a vast nation. The main message of this book is that these clubs satisfied the desire for local friendship and the desire for wider horizons, simultaneously. As such, they became a potentially powerful political force.

Skocpol mourns the decline of these “federated” civic institutions. Like many scholars who document the “decline in America’s social capital,” she points at least one finger at a new sort of national organization. One can be a member of this new sort of organization without ever talking to a soul, simply by sending a check to a non-grassroots office in Washington, D.C. Members of this “check-writing public” do not learn to participate in any local group, to create local ties, to run meetings; they do not learn the arts of social self-organization. Skocpol also points out that these organizations are inequitable
in that people vote with dollars, by sending checks; dollars do not operate on the civic principal of “one person, one vote.” Wealthier classes’ concerns prevail, including their charitable concerns for the down-and-out; grimy workers’ issues like the minimum wage and workplace safety get ignored.

In contrast, in one of the best parts of the book, we see a photo of ladies in Henry, South Dakota, all ages, probably from a variety of classes, she says: all local chapter members of the national General Federation of Women’s Clubs. Skocpol reproduced a half a year’s worth of their meeting agendas, with about five topics per meeting. Among those:

- Mrs. Pease was to speak on “American Scientific Investigation;”
- Mrs. Parsons on “New Methods of Child Education;”
- Mrs. Tarbell on “Fashions of Different Periods;”
- Mrs. Snyder on “Our National Defenses Today;” and
- Mrs. Kreger on “Ten Questions on Needful Legislation for Married Women of South Dakota.”

This is fascinating material. The sociological classic, *Middletown*, reports a similar mixture of discussions in these clubs, of topics political and aesthetic, scientific and mythological, sacred and profane that is so wide ranging, it is hard to imagine getting a grip on them in one meeting. What was it like in these groups? Did participants feel very modern to learn about “American Scientific Investigation” in their group? What motivated them to learn about all these varied topics—just plain curiosity? A desire for connection to something bigger, as Skocpol argues? A yearning to escape rural isolation, imagine less inhospitable or warmer climes (one wonders at the topic of January 18, 1916: “What Women Elsewhere are Doing!”)? Did they feel self-congratulatory about participating, like the character Babbitt famously did in the Sinclair Lewis novel? Were participants equally polite when the janitor spoke as when the manufacturer spoke? The national policy statements of these clubs very eagerly claim that all members are to be treated equally, but so do a lot of groups that then inadvertently perpetuate inequality (schools, for example); just reading the official statements does not tell us about the quality of interac-
tion within the groups. How did these farmers get to the meetings in South Dakota in February? How did they alight on these topics, and did they feel as if they had gotten a handle on them after the meeting? Did they enjoy arguing, or did they try to agree? Did they assume their opinions mattered?

These questions might not be possible to address with the scraps of data that have been handed down to us, but they are crucial, I think, to understanding how these sorts of groups fostered a sense of togetherness among members, and how that fondness expanded out to the broader world. In the many hours I spent (as a sociologist) in the local chapter of a nationally federated club I called The Buffalo Club, listening to conversation and trying to find out how such groups drew people into a wider political universe, I decided that no matter what the national organization’s official policies were, this particular grassroots group was mainly about making bathroom jokes and sex jokes, cultivating a feeling of cowboy-booted rebelliousness, and getting drunk. The South Dakota ladies probably never made bathroom jokes, and probably purposely took off any boots they might have worn on the ranch; but structurally, their organization was the same as the Buffaloes’. Something more must be going on, in addition to the explicit structure of the organization.

Unlike Putnam, who famously eulogizes the bowling leagues of yore, Skocpol argues that no number of local “songfests and picnics” will create a new democratic public. For Skocpol, the goal is political change, and if cultivating more social capital will help Americans make political change, then she is for it. The social capital she really cares about is the kind that will help people make structural changes; her example is the American Legion, that helped push the GI Bill through Congress in the 1940s, thus guaranteeing all veterans of World War II a free college education. Her contrast case is the Clinton administration’s effort to reform health care provision, 50 years later, after the big clubs like the American Legion had declined. In this latter case, “top-heavy advocacy groups” and secretive panels of experts could not muster the popular pressure necessary to push a bill through.

So, we need grassroots involvement to make political change happen, but grassroots involvement will not arise in a massively
inegalitarian society that is run from the top-down by these massive advocacy groups. To resolve this seemingly chicken-and-egg problem, Skocpol wants new organizations that could do what those animal clubs once did: foster local friendly solidarity while simultaneously welding people into a potent, possibly political entity.

Should we all run to our phone books and call our local Elks chapter? The end of the book offers innovative, provocative suggestions aimed at developing a nationally linked web of local grassroots groups. Much to my relief, these did not include looking up our local animal club. Instead, her suggestions focus on bigger, institutional changes. Some of these include: make unions more democratic; encourage the nonprofit advocacy groups in Washington to cultivate local grassroots chapters instead of just asking for money; and, develop “civic journalism” aimed at getting the public involved in making the news, partly by reporting more on civic groups and partly by inviting civic leaders to speak on TV instead of always displaying the same media-anointed pundits.

I think these are fantastic suggestions; for one thing, Skocpol is right that political conversation in little local “unfederated” groups can be predicated on a feeling of powerlessness in the face of national and global problems. Oddly, though, the suggestions rely on the same professionals and nonprofit agencies that Skocpol wishes had not taken over civic life. That is, she does not want civic life to be directed by Washington-based nonprofits, but her wise suggestions imply a new blend of nonprofit professional activism and grassroots involvement: she wants the big nonprofits and the news media to cultivate the grassroots from above. It seems to me that they would still be directing civic life, but in a more participatory way.

To know what these blended organizations do, on the grassroots level, again, we need to hear the “how.” We could go to the meetings, to hear the members relating to one another—how the professionals try to entice the citizens into taking charge. A few social researchers are in the process of investigating just that: what happens when experts—who are usually housed in those nonprofits, though also sometimes in government positions—try, on purpose, to create grassroots solidarity, local leadership, and broader horizons in local groups. And then, wouldn’t these questions be appropriate to ask of
The past as well? That is, weren’t there paid leaders at the top trying to cultivate the grassroots back then, too?

The book is very readable and concise. In parts, it seems too concise; it almost seems as if the author accidentally deleted some “transitional” pages. We begin with the federated clubs at the turn of the 20th century. Then we see a decline in participation in the 1920s. Next are about ten pages devoted to the 1920s through 1960—the years that marked the zenith of the federated clubs’ popularity. “Suddenly”—and she uses the word several times—the animal clubs basically collapse, and the decline is attributed to the excitement of the 1960s. People started thinking that the clubs were racist or sexist, and had other, more political goals than the federated clubs could gratify. These past critical positions indicate progress to me. Somehow, above or below the noses of the federated groups, these once-minority positions became official policy; here are big, democratic social and legal changes that did not spring from the federated groups. So, while the case for the federated groups is very convincing, there must be other ways that social, political change has happened in the U.S. as well. And I was not sure if she was saying that one could erase the racism, sexism, ethnocentrism, and nonpartisanship of those federated clubs, while still retaining all the goods they offered, or if the exclusions were, as much social theory would presume, part of what made enthusiastic inclusion possible.

For some communitarians, this book will offer an important antidote to the wistful yearning many of us feel for the purely local organization. She yanks us out of the small world of Mike Mulligan and His Steam Shovel, showing that even in those early years of American civic development, with its seemingly self-contained town halls, active citizens wanted to be part of a vast complex whole. Curiosity and political awareness neatly, almost magically complemented each other. Can we get that back? Will songfests do the trick? In making such a strong case against that possibility, this book opens up an urgent question in a way that takes local people’s concern for, and curiosity about, the wider political world seriously.
The Communitarian Summit
An Agenda for the Next Four Years
July 9-11, 2004
Washington, D.C.

The George Washington University

Themes:
Communitarian Theory and Philosophy
Communitarian Economics: What Is to be Done?
Communitarian Policies
Beyond Relativism: The Moral Agenda—Communal Obligations and Universal Values
From Empire to Community: Toward a Communitarian Foreign Policy
The Moral Voice, Social Norms (Informal Controls), and the Law
Recapturing Our Holidays
Rights and Responsibilities in the Age of Terrorism
Sustaining and Reforming the Community of Communities

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Registration fee is $85.00 until February 1, 2004 and $125.00 thereafter. A list of hotels near The George Washington University can also be found on our website.

The summit is organized by the Communitarian Network and held in conjunction with the annual meeting of the Society for the Advancement of Socio-Economics.
## THE COMMUNITY’S PULSE

### How Good Is Your Community?

**Overall, how would you rate the quality of life in our community—would you say it is excellent, good, fair, or poor?**

<table>
<thead>
<tr>
<th>Rating</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Excellent</td>
<td>27%</td>
</tr>
<tr>
<td>Good</td>
<td>49%</td>
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<tr>
<td>Fair</td>
<td>20%</td>
</tr>
<tr>
<td>Poor</td>
<td>4%</td>
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*In general, would you say you agree or disagree with the following statement—“people don’t get involved enough in efforts to improve the community where I live?”*

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<thead>
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<th>Percentage</th>
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<td>46%</td>
</tr>
<tr>
<td>Agree not so strongly</td>
<td>21%</td>
</tr>
<tr>
<td>Disagree not so strongly</td>
<td>16%</td>
</tr>
<tr>
<td>Disagree strongly</td>
<td>12%</td>
</tr>
<tr>
<td>Don’t know/No answer</td>
<td>5%</td>
</tr>
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</table>

**If you had to choose, which of these five actions would you do the most to improve life in the community where you live?**

<table>
<thead>
<tr>
<th>Action</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
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<td>More people voting</td>
<td>14%</td>
</tr>
<tr>
<td>More people volunteering</td>
<td>27%</td>
</tr>
<tr>
<td>More people donating food/clothing</td>
<td>11%</td>
</tr>
<tr>
<td>People working more closely on community problems</td>
<td>40%</td>
</tr>
<tr>
<td>More people donating money to charity</td>
<td>8%</td>
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</tbody>
</table>

Compiled by Deirdre Mead

From the Libertarian Side

Don’t Make Me Say It!

The ACLU is up in arms over a new Colorado law that requires public school students and teachers to say the Pledge of Allegiance each morning. On behalf of three students and six teachers, the organization has sued the governor, the state education commissioner, and four school districts. The objectionable law, passed in early August, largely restates a policy that is already in place in many schools. The requirement to say the Pledge is not absolute: the law allows exemptions for students who have religious objections, who are not U.S. citizens, or whose parents send a note citing some other reason.

But, according to officials from school districts named in the lawsuit, the law is unlikely to have many practical implications for individuals. A spokeswoman for the Cherry Creek District explained to the *Rocky Mountain News* that, according to her district’s official policy, there are no consequences for teachers and students who refrain from reciting the Pledge for any reason. The Jefferson County district outlined a similar policy, which cautions that “[r]etaliation and/or harassment of any individual based upon their participation or nonparticipation shall not be tolerated.”

The ACLU sees the guidelines for exceptions to the law as undue intrusions into people’s private beliefs. As Mark Silverstein of the
Colorado ACLU explained to the paper, “There’s a potential problem in just questioning students—‘Why don’t you say the pledge, Johnny?’” Silverstein also worries the law could lead schools to monitor which individuals participated and didn’t participate: “Will the principal be taking down names?”

One of the sponsors of the new law believes the plaintiffs are unduly anxious. “Gosh, if you don’t want to say the Pledge of Allegiance, don’t do it,” State Rep. Bill Crane (R-Arvada) told the Rocky Mountain News. “The way I look at it is this: Is it a good thing or a bad thing for students to do? And I come up with it’s a good thing.”

From the Authoritarian Side

A Move to Make Adolescent Kissing Illegal

A new law under consideration in the British Parliament would technically outlaw kisses, caresses, and other mildly sexual conduct involving anyone under the age of 16. In response to increasing public concern about sexual abuse via Internet chat rooms, members of Parliament have formulated legislation that would mandate tougher penalties for seduction of children via the Internet—and also expand the definition of illegal sexual contact involving children. Currently, sexual intercourse and “indecency,” consensual or not, is illegal if it involves anyone aged 15 or under. The proposed change would make all other forms of “sexual touching” illegal for this group—even kissing. Violators could face a five-year prison term. The editors of the Economist wrote:

There are sensible public-policy reasons for encouraging teenagers to engage in sex later rather than sooner...using the criminal justice system to do it is wrong. It makes the law look an ass; it blurs the important distinction between real child abuse, which is wicked, and teenage canoodling, which is not; it has bad practical consequences...in discouraging teenagers from seeking advice about contraception and STDs.
The legislation will be considered by a parliamentary committee in October.

From the Community

A Not-for-Profit Funeral Home

The Plaza Jewish Community Chapel in New York City is a new kind of funeral home—it’s nonprofit. One of only a few independent, not-for-profit funeral homes in the United States, Plaza is funded by a group of individual philanthropists and community organizations who bought the business over two years ago and turned it into a nonprofit enterprise. In its first year as a nonprofit, Plaza performed 390 funerals.

While most commercial funeral directors spend their time trying to convince relatives of the deceased to buy expensive coffins and funeral packages, the staff at Plaza focus on providing for their customers at lower costs. As Alfred Engelberg, whose foundation helped finance Plaza’s nonprofit transformation, told The New York Times, “The difference between a for-profit and a not-for-profit is that the not-for-profit can look at the business as a service. They don’t have to make money.” Indeed, in its first year as a nonprofit, Plaza was able to lower its prices by 20 percent. The prices should drop further this year, a Plaza board member told the Times. The cost of a “basic” funeral package at Plaza, is almost $1000 less than the cost of a similar package at Riverside, a commercial Jewish funeral home that was once under the same ownership as Plaza. While directors of commercial funeral homes insist that nonprofits do not necessarily offer better deals for consumers, Plaza’s transition to a nonprofit seems to have forced commercial competitors to think twice about their pricing strategies. As Plaza executive director Andrew Fier noted to the Times, “Riverside hasn’t raised its prices in two years... [T]hey’ve noticed us.”

Elizabeth Tulis
Communitarians for Education—But Whose?

Alan Ehrenhalt’s recent essay (“The Dangers of School District Consolidation,” The Responsive Community, spring 2003) is an excellent examination of the controversy over local schooling in Arkansas. He correctly notes that those who advocate consolidating smaller school districts into larger ones usually do so meaning to provide “the widest array of courses for the best price” to students who otherwise would attend small, presumably limited rural schools. John Brummett, an Arkansas journalist and supporter of Governor Mike Huckabee’s consolidation proposal, captured this perspective when he wrote last March that defenders of small school districts “think of education as service to the existing constituency. I think of it as a force for change...I think education should aspire to extend horizons further than the neighborhood college...[It should] introduce students to a remote world.” To say the least, those who take seriously the value of community should think twice about reforms that explicitly aim students toward some “remote” end; and those who take seriously the importance of local democracy should be taken aback at Brummett’s brusque dismissal of serving the “existing constituency.”

Unfortunately, it’s not that easy for us communitarians. Condemning the lack of respect for rural ways of life which often characterizes educational reformers, and praising the communal involvement and participation that small school districts make possible, still
doesn’t clarify what a properly conceived communitarianism should demand of Governor Huckabee. There is still the question of which community, which constituency, takes priority here.

As Ehrenhalt notes, Huckabee was originally resistant to calls for consolidation. What changed his mind was a decision by the Arkansas Supreme Court that the state school finance system was inequitable and did not satisfy the education clause in the Arkansas Constitution, which states that “the State shall ever maintain a general, suitable and efficient system of free public schools.” With this decision (and the threat of a court takeover of Arkansas’s schools) hanging over the state, Huckabee decided that district consolidation had to be part of any reform proposal. After all, he claimed, fewer school districts with a consequently larger pool of teachers to share would be able to provide a greater variety of classes to more students (thus presumably somewhat equalizing the great disparity in educational resources around the state) at little extra cost, or perhaps even a savings (this point is highly contested, however). Huckabee proposed that districts with under 1,500 students total be consolidated—which would have affected nearly three-quarters of Arkansas’s 310 school districts, except that he also proposed exceptions for especially isolated or highly performing school districts, whatever their size (thus undermining some complaints about long bus rides and “punishing” excellent schools). But this was far from a sufficient guarantee to most advocates of small community schools; protests by parents, students, and educators, which Ehrenhalt vividly describes and defends, quickly spread across the state.

What Ehrenhalt’s essay doesn’t mention, however, is that the court case that began this whole process, Lake View v. Huckabee, was vigorously pursued and supported from the outset by a coalition of parents and educators from some of Arkansas’s smallest school districts and some of the most committed rural-schooling organizations in America. It made perfect sense that they do so: Lake View School District, serving just under 200 students total, has woeful facilities and little technology, and some teachers there earn as little as $15,000 a year. Chancery Court Judge Collins Kilgore wrote that “for some districts to supply the barest necessities and others to have programs generously endowed does not meet the requirements of
the constitution.” This judgment against the unfair distribution of education funding and resources in Arkansas was cheered by advocates of small schools: the Rural School and Community Trust, which now strongly condemns Huckabee’s consolidation proposal, celebrated the original lawsuit as an instance of a “little district that could.” In language not too different from Brummett’s focus on technical opportunity and choice, they argued in their brief that rectifying the $1,800 per-student difference in state funding that exists between those districts in the top percentile and those near the bottom in Arkansas “would be enough to raise teacher salaries, hire more teachers...offer remedial reading courses...[and] provide computers for every classroom.”

One could, perhaps, ask the supporters of Lake View if they realistically imagined that they could achieve increased state funding for poor districts, given the American people’s deeply ingrained resistance to either raising taxes or widely redistributing property tax funds, that didn’t also involve increased centralization of those same districts. But one can’t fault their intentions. Those who forced this issue did so because they took seriously the stated educational standards of the state of Arkansas, a community in its own right, with commitments and obligations that have long been skewed in their application. Ehrenhalt correctly notes that the bulk of protests against Huckabee’s proposal has emerged “from the sparsely populated towns of northern Arkansas”; what he does not note is that the majority of such school districts are entirely or mostly white, while tiny school districts like Lake View, which have suffered the worst in terms of both funding and school performance, are predominantly African-American districts in Arkansas’s southern and eastern Delta region. Many of these are agricultural towns that have struggled (and often have consistently lost population and property value) ever since their founding in the era of Reconstruction. A concerned communitarian citizen must thus ask herself: if there is (unfortunately) neither the will nor a plausible strategy for raising and equalizing educational funds across the state, how much force should we grant to the demands of those who defend the integrity of their local communities when such (certainly justifiable and even valuable) defensive actions may unintentionally help to perpetuate an injustice (the continuing decline of certain districts which will likely never be
able to provide an education comparable to that available in other school districts) within a larger community, namely, the sovereign state of Arkansas, which has an integrity all its own to protect?

Ehrenhalt concludes by stating that consolidation should not be sold “as an opportunity to enter a brave new world” of education. This is certainly true. But it would be unfortunate if the only other alternative for the citizens of small-town Arkansas was to view consolidation as a sacrifice of, as he put it, “the security of their community life” for the sake of an “austerity program.” (Huckabee deserves some blame here, as he has routinely sold consolidation as a way for wealthy districts to avoid being financially burdened by the needs of poor districts.) For the people of Arkansas, both rural and urban, also share in another collectivity, one that has its own standards to uphold. Appeals for equal treatment are so often framed in terms of rights that we forget (or allow historical animosities to blind us to) the fact that such appeals are only heard because a larger commitment already exists, to the needs of all the people of a particular place. It would, of course, be foolish to pretend that the state itself can fill out a way of life the way a small town with a local school district can. And admittedly, Huckabee’s determined focus on school district size (and the somewhat arbitrary number of students) has often crowded out public attention to the need to preserve that matrix of other factors which enable some tiny rural schools to provide their students with a superb education, leading to far more animosity towards his proposals than they deserved. But all this is simply to say that, when faced with hard choices, communitarian values can be found on both sides. Consolidation may be far from an ideal way of accomplishing school reform in Arkansas, but there is something to be said for treating the educational opportunities which communities and the state make possible as a common good, one that must be tended to at least as much by the whole, as by the parts.

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