

The Responsive Community

Volume 7, Issue 2, Spring 1997

UP FRONT

- 4 **Cloning: Taking Ethics Seriously** — Peter Steinfelds
Can Multiculturalism Unite Us? — Paul Jerome Croce
Giving Teachers Authority — Albert Shanker

ESSAYS

- 13 **Public/Private: The Limitations of a Grand Dichotomy**
Jeff Weintraub

While notions of “public” and “private” are crucial to our understandings of democracy and community, their meanings are far from well-understood.

- 25 **Can Design Make Community?**
Philip Langdon

Relationships and values are the defining elements of community. But a new breed of architects are showing that by paying attention to the *physical* layout of a neighborhood, bonds, shared understandings, and other elements of community can be fostered.

- 38 **Social Security and the Dividing of the American Community**
Jeff Madrick

In revamping the Social Security system, we must respond to two questions: What is the extent of the problem, and what impact will different solutions have on our national commitment to the common good?

continued...

- 46 **Concealed Handguns: The Counterfeit Deterrent**
Franklin Zimring and Gordon Hawkins

We frequently face the pronouncements of new empirical studies on one issue or another. But an analysis of one recent study shows why the public must be on its guard in face of what purports to be objective social science.

DEPARTMENTS

- 61 **The Community Bookshelf**

Liberal Neutrality and Its Role in American Political Life — Daniel A. Bell

The Use and Abuse of History — Mark Hulliung

Two reviews of Michael J. Sandel's *Democracy's Discontent: America in Search of a Public Philosophy*

The Grounds of Community — Glenn Tinder

Review of Amitai Etzioni's *The New Golden Rule: Community and Morality in a Democratic Society*

- 80 **Libertarians, Authoritarians, Communitarians** — Nora Pollock

- 87 **The Community's Pulse**

- 88 **Kaleidoscope** — Michael Bocian

- 92 **Commentary**—Philip E. Devine, Arnold R. Eiser

- 96 **Contributors**

Readers interested in receiving news about communitarian activities, publications, etc., via our new electronic mail publication—*Communitarian Update*—please send a message, with the word "subscribe" in the subject field, to comnet@gwis2.circ.gwu.edu.

The Responsive Community

EDITOR

Amitai Etzioni
The George Washington University

BOOK REVIEW EDITOR

David Sciuilli
Texas A&M University

CO-EDITORS

William Galston
University of Maryland

Mary Ann Glendon
Harvard University

Thomas Spragens, Jr.
Duke University

MANAGING EDITOR

Daniel Doherty

ASSISTANT EDITORS

Michael Bocian
Zubin Khambatta
Frank Lovett
Jessica Mayer
Nora Pollock

EDITORIAL ASSISTANTS

Jessica Bedoya
Nancy Tingg

CIRCULATION MANAGER

Monica Gonzalez

EDITORIAL BOARD

Benjamin R. Barber
Rutgers University
Robert N. Bellah
University of California, Berkeley
John C. Coffee
Columbia University
Anthony E. Cook
Georgetown Law Center
Jean Bethke Elshtain
University of Chicago
James Fishkin
University of Texas, Austin
John Gardner
Stanford University
Nathan Glazer
Harvard University
Robert Goodin
Australian National University
Kwame Gyekye
University of Ghana, Legon
Hans Joas
Free University, Berlin
Seymour Mandelbaum
University of Pennsylvania
Martha Minow
Harvard University
Ilene Nagel
University of Maryland
Philip Selznick
University of California, Berkeley
William Sullivan
LaSalle College
Charles Taylor
McGill University
Daniel Yankelovich
DYG, Inc.

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

Copyright 1997 by *The Responsive Community*. All rights reserved. We request our readers not to make reproductions as it will undermine our ability to continue publication.

Subscriptions: Rates for individuals are: \$27 per year; \$48 for two years; \$17 per year for full-time students. Libraries and institutions: \$70 per year. Subscribers outside the U.S. should add \$7 per year for additional mailing costs. Send subscriptions and changes of address to: Circulation Manager, *The Responsive Community*, 2020 Pennsylvania Ave., NW, Suite 282, Washington, DC 20077-2910, Tel: (800) 245-7460. FAX: (202) 994-1606.

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

Cloning: Taking Ethics Seriously

Peter Steinfels

Already, the ethical misgivings about cloning have created a backlash. For example, both *The Economist* and *Business Week* recently devoted their covers, and their lead editorials, to the dramatic debut of Dolly, the cloned sheep. *The Economist*, taking a definitely superior tone toward “all the fuss about ethics,” recoiled from “this week’s outpouring of fear” and “the howl of protest.” “Newspapers and pundits,” the editors wrote wearily, “trundle out all the old fears and fantasies: armies of cloned Hitlers, Mozarts or Aldous Huxley’s proletarian slaves.”

In even stronger terms, *Business Week* bemoaned “widespread hand-wringing,” the “growing politicization of genetic research,” and “a chorus of Cassandras.” The editors wondered: Would images from “Frankenstein,” “Jurassic Park,” and “The Boys from Brazil” deter the world from biotechnology’s promise of new medicines, disease-resistant crops, biocomputing, and hearts for transplants produced by gene-altered animals? “A reactionary spasm of scientific know-nothingism,” the editors warned, threatened to “choke the human spirit of adventure, of challenging the old, and pushing the envelope of what can be done. The world should embrace the biological revolution, not cringe from it.”

In a manner verging on the schizophrenic, these ringing statements were accompanied by remarkable qualifications. Current fears were “understandable,” *The Economist’s* editorial allowed; indeed, to embrace human cloning “would be suicidal.” Given the current and perhaps irreducible unknowns, to proceed even in a single case would be an outrageous experiment on a human being, the editors said. For *Business Week*, “the notion of individuals cloning themselves is not only repugnant but also raises important questions,” including legal ones that “boggle the mind.” Nonetheless, both magazines seemed less concerned about the ethics of cloning humans than about the danger that biotechnology in general might be hobbled by any precipitous rush to judgment.

Rush to judgment? Articles in the same issues of the two magazines indicated how far ethical and legal thinking about science and human reproduction have lagged behind what scientists have accomplished. “Current British laws tend either to ignore the social pressures and ethical questions generated by the new techniques, or to defer to scientists and doctors,” said a report in *The Economist* on human fertility. An article in *Business Week* concluded, “On the research side the consideration of the bioethical questions has been spotty and half-hearted for years.”

It is, in fact, three decades since the Nobel Prize-winning geneticist Joshua Lederberg floated arguments for human cloning and since the pioneering Protestant moral theologian and medical ethicist Paul Ramsey replied with a major address, “Shall We Clone a Man?” later published in his book *Fabricated Man*. But the then-emerging field of bioethics never quite came to a consensus on the ethics of human cloning. In part, bioethicists dropped the topic for the same reason most scientists did: Cloning of any mammals seemed technically unfeasible.

Ethicists also shied away from the question because in scientific and medical circles, cloning was often viewed more as a plot device for B movies about mad scientists than as a legitimate pursuit. In setting the issue aside, bioethicists seemed to be deferring to a view long nurtured among scientists that science should be critiqued with caution because discoveries are almost always hard won in the face of stubborn popular prejudice and remain endangered by irrational fear of the new.

But there has been another view in which science is not nearly so vulnerable. Indeed, in contemporary culture, science has achieved a nearly impregnable status. Some would even say it has all the trappings of a quasi-established religion. This is science with a capital “S,” whose recent ambassadors have been Carl Sagan and Richard Dawkins. This is the Science that presents itself as the only reliable source of ultimate explanation and the best hope for human happiness. With mythical and historical heroes, from Prometheus to Roger Bacon, martyrs like Galileo, and public rituals like the awarding of Nobel Prizes, this is the Science that historically understood itself as a heroic alternative to traditional faith. Although many working researchers may be indifferent to this heritage, they are still affected by its reflexive condemnation of any hint of a limit on scientific inquiry as an affront akin to blasphemy.

Science as a force in modern culture, in this view, is coupled to science as a force in the modern marketplace, and the combination creates a powerful machine that will not be subject to ethical restraint unless faced by an equally powerful sense that crossing certain lines would be morally abhorrent. Can such a line be drawn at the point, 5 years from now or 50, when human cloning, if it is a possibility at all, suddenly becomes as real as Dolly? Or need the line be established well beforehand, harnessing whatever ethical intuitions and even visceral reactions that can withstand rational scrutiny?

Three decades after the discussion was begun hardly seems too soon to reach some closure on the ethics of human cloning. As Paul Ramsey suggested in *Fabricated Man*, ethical discussion that frets about awesome technical possibilities but from the start is unwilling ever to say “no” is ultimately frivolous. “It would perhaps be better not to raise the ethical issues,” he wrote, “than not to raise them in earnest.”

Can Multiculturalism Unite Us?

Paul Jerome Croce

Multiculturalism is usually associated with difference. Growing in reaction to consensus readings of the American past and in realization of the diversity in American culture, multiculturalism has its roots in the things that separate people from each other. Varieties of multiculturalism go in different directions from this premise; but whether radical or liberal, whether emphasizing power and victimhood or the distinct contributions of each group, multiculturalism keeps coming back to its roots in difference. The vectors point out, toward other members of the unassimilated group.

These insights work well to foster identity politics within marginal groups. And surely identity politics has made many important contributions. It has given a public voice to members of groups that had often felt marginalized or ignored. It has been a vehicle for personal and ethnic pride. It has alerted other citizens about distinct cultural traits and about histories of injustice. It has given a sense of roots or identity to people who might otherwise feel lost in the crowded modern world. It also establishes the possibility for members of disadvantaged groups, especially young people, to see role models of people like themselves, not just people who are assimilated Americans.

One problem with this outlook, however, is that it does little to foster positive relationships across the differences. In doing so, this version of multiculturalism reveals a classic problem of traditional American individualism: without a strong bond to the community the individual can pursue his or her own ideas and values without check by the views of other people. A multiculturalism rooted in difference exaggerates the individualist's tendency to let one's personal feeling become the norm for judging the rest of the world. Most people assume the correctness of their own views, and they find confirmation in their own experience. This is a universal human tendency, but one that needs to be somewhat reigned in for a society to survive. Unfortunately neither individualism nor difference multiculturalism provide much in the way of an antidote.

By contrast, concern for the common good and universal moral standards tend to serve as checks on these subjective tendencies. Identity politics pulls the rug out from under these perspectives on the whole, and thus undermines such related concepts as common sense and the common good. Therefore difference multiculturalism, despite its many contributions, can leave members of marginalized groups assertive about their own identity, yet perpetually alienated for not being able to get other groups to sympathize with them very fully.

In one sense, difference multiculturalism bears some resemblance to the supporters of segregation in the American South of the 1950s and 1960s. Although not vicious like George Wallace hollering “Segregation Now! Segregation Forever!” multiculturalists ask the public to recognize differences that are so essential and incommensurable that they are likely to keep diverse people separate—or at least keep them from sympathizing with each other very much. Thus an irony: the success of multiculturalists in promoting the idea of uniqueness of perspective will make the ultimate goal of that endeavor—mutual respect—all the more difficult, as different persons and groups will seem completely incomprehensible. As any teacher knows, we all learn by connecting the new and unfamiliar with the things we already know—a sort of translation of the new ideas and expansion of the old ones. Difference multiculturalism, however, presents difference without translators.

Bridging the Differences

These are some of the dangers of a multiculturalism rooted in attention to difference. Fortunately, this is not the only multiculturalism available. While difference multiculturalism displays the relations between people with the vectors pointing out to emphasize points of separation, this does not do full justice to the relations between peoples who have created the modern world. Contemporary historical research points to the way various cultures are not and have never been hermetically sealed entities. While high speed transportation and the interweaving markets of the modern world have encouraged the intersection of peoples, in some ways the premodern world was even more multicultural because of a minimal awareness of race and a lesser identification with nation.

In sum, whether in reference to the distant past or to more recent history, human beings have been in a swirl of interaction, constantly creating and re-creating each other. The solid edifice of English identity is actually a hodgepodge of Celtic, Roman, Danish, Anglo-Saxon, and French. In U.S. history, even the efforts of immigrant groups to retain their identity have been agents for interacting with the mainstream and in turn influencing it. Most dramatically, the American South is a product of black and white races interacting.

Even the cultural trend toward difference multiculturalism itself displays features of the interaction of peoples. The black self-consciousness of the civil rights movement fed the trends toward identity affiliations of Asian-Americans, Native Americans, Hispanics, and so-called white ethnics. Similarly, "Roots" was a story about a black man's search for identity, but many nonblacks identified with his quest. These broad historical trends have their corollary in individual personal experiences, with the large number of marriages across racial, ethnic, and religious lines. As Henry Louis Gates has written, "Mixing and hybridity are the rule, not the exception." This way of understanding multiculturalism turns the vectors around: instead of differences pointing out, we should realize how they have been pointing in toward each other.

This form of multiculturalism, which I like to call "integrated," clearly raises the same problems associated with the melting pot. It seems to imply conformity; it seems to accept objective standards uncritically. But the recent past has not been wasted. The insights and influence of difference multiculturalism will serve as chastening forces reminding these new trends in multiculturalism of important differences. Moreover, integrated multiculturalism does not deny diversity or set a goal of eliminating difference like the worst features of the melting pot of old; it simply recognizes that differences interact and shape each other. Diversity is not the last word in the shaping of culture; it is, however, a first step in understanding it.

Giving Teachers Authority

Albert Shanker

In 1993, the Texas Federation of Teachers (TFT) sent a questionnaire to its members, asking them about their experiences with disruption and violence in their schools. The results were alarming. Undoubtedly, the disorder that teachers reported was the work of a few students, but TFT knew that these kids were harming the learning of all the rest. Without tough codes of conduct that were consistently enforced, they would continue doing so. The union also knew that parents and members of the community agreed overwhelmingly on the importance of establishing order in the schools, so TFT launched a campaign calling for zero tolerance for certain kinds of violent and disruptive behavior.

The campaign led ultimately to the passage of the Texas Safe Schools Act in 1995. The legislation requires school districts to remove violent students from regular classrooms and place them in alternative educational settings. It also gives teachers the authority to remove from their classes students who consistently disrupt other students; and it prohibits administrators from automatically returning that student—which was a common practice. These students are generally reassigned to another class. Administrators can appeal a teacher's action to a committee set up for that purpose, so the law strikes a balance between safeguarding the rights of students who are consistently disruptive and the rights of all the rest.

What impact is the Safe Schools Act having? It is still early to say, but there are some good signs. TFT recently asked members to respond again to the school violence questionnaire originally sent out in 1993. The before-and-after comparison is encouraging. The number of teachers reporting threats of violence to students was down by 6 percent. The number reporting threats of violence to themselves was down by 33 percent. The number reporting assaults by students on other students was down by 10 percent. The number saying that they had been assaulted in the past year was down by 35 percent.

It is true that the numbers remain very high for many of these problems. For instance, 59 percent of teachers still report threats of

physical violence by students to other students, and 47 percent report student-to-student assaults. Nevertheless, the downward trends suggest that, thanks to the Safe Schools Act, many Texas classrooms are already beginning to be better places for learning.

The bad news is that enforcement is spotty: Only 35 percent of the teachers said their district was trying to enforce the new law. Even worse is the news of a movement to weaken the law during this legislative session. Critics say the Safe Schools Act is a big example of micromanagement and a blow against local control. They hope to curtail the authority it gives teachers and allow administrators more “flexibility” in deciding when to exercise zero tolerance and when to make exceptions. In other words, they want to remove many of the provisions that are already making the law effective.

Undoubtedly, giving administrators the freedom to relax the rules would make life easier for them: It is no fun trying to tell angry parents why you cannot make an exception for their child. But John Cole, president of TFT, points out exactly why this kind of leeway would also be counterproductive:

To establish an orderly learning environment, you have to draw lines and tell students they may not cross those lines. Once you begin to make an exception for one student, the line becomes blurred and the rule loses meaning. If we say that a student caught with one beer at school is not a big deal, you can be sure that some student will try to bring two beers, and then claim, “I was only one beer over the line, so what is the big deal?” If you begin to make exceptions for honor students who are caught with marijuana, other students will point out, “You let him go; it is not fair to treat me differently.”

And, unfortunately, with more “flexibility” will also come racial and ethnic discrimination.

Going back to the status quo, which is what critics propose, is a bad idea. We already know that it does not work. We also know the Texas Safe Schools Act is a strong piece of legislation that is likely to be effective—that is obvious from the impact it has had after only one year in which the level of enforcement was not very high. The law deserves a chance to work.

We talk a lot about improving the educational performance of all our students. Many states are busy setting academic standards, and

some are even talking about tying assessments to these standards. But the truth of the matter is that none of these changes will achieve what we want unless schools are safe and orderly places where teachers can teach and students can learn. The citizens of Texas took a big first step in making this possible. They must not retreat.

ESSAYS

Public/Private: The Limitations of a Grand Dichotomy

Jeff Weintraub

In Norberto Bobbio's useful phrase, the public/private distinction stands out as one of the "grand dichotomies" of Western thought. It is a binary opposition that is used to subsume a wide range of other important distinctions and that attempts to dichotomize the social universe in a comprehensive and sharply demarcated way. It is also, when used incautiously, a major source of confusion. Part of the attraction of this dichotomy no doubt lies in its apparent clarity and simplicity; but this is deceptive. In fact, different sets of people who employ the concepts of "public" and "private" mean very different things by them—and often, without quite realizing it, mean several things at once. The expanding literature on "public goods," which takes its lead from neoclassical economics, is addressing quite a different subject from the "public sphere" of discussion and political action delineated by Jürgen Habermas or Hannah Arendt, not to mention the "public life" of sociability charted in different ways by Philippe Ariès, Jane Jacobs, or Richard Sennett. The current debates over "privatization" largely concern whether governmental functions should be taken over by corporations. What does this have to do with the world of "private life"—intimacy, sexuality, family, and friendship—explored by social historians, cultural critics, and TV talk shows?

Or with the notion of “privacy” that figures in the abortion controversy?

The public/private distinction, in short, is not unitary, but protean. It comprises not a single paired opposition, but a complex family of them, neither mutually reducible nor wholly unrelated. And these multiple (but also overlapping) discourses of public and private do not simply point to different phenomena; often they rest on different underlying images of the social world, are driven by different concerns, and raise very different issues. When we forget this, we not only talk past each other, but confuse ourselves as well.

Furthermore, while many of these versions of the public/private distinction can be illuminating if used for carefully defined purposes, attempts to use any of them as a comprehensive dichotomous model of society will always be profoundly misleading and can often be practically disastrous. Either the procrustean dualism of their categories blanks out crucial mediating phenomena—including those that should be of special interest to people concerned with questions of community, democracy, or moral order—or else one pole of this dichotomy is specified concretely while the other expands into a vague and overly broad residual category, in which case significant distinctions are lost.

Consider, as just one example, the common tendency to equate the public/private dichotomy with the contrast between “the state” and “the individual.” This perspective may be appropriate as, say, a mode of framing certain very specific legal issues. But if we take it seriously (or naively) as a basis for broader social and political discussion, then it yields a peculiar and misleading picture of the social landscape, since what is missing from it is, precisely, society. That is, it leaves out (among other things) the institutional and cultural structures of the social order and the crucial mediating practices of everyday sociability and of civic engagement, which are neither “public” *nor* “private” in terms of this framework, and which have their own distinctive dynamics and requirements.

Matters are not improved if “private” is treated (explicitly or in effect) as a residual category meaning “nonstate,” since that lumps together such very different realms of social life as the market economy,

the family, and the fabric of local or neighborhood community. This kind of conflation is not inconsequential, since unleashing the first realm can often have massively disruptive effects on the other two. Using “private” as a catch-all residual category for “nonstate” also obscures, for example, the possible tensions between the “private” rights and interests of *individuals* and the “private” life of the *family*, the latter being a domain of “private” life that disintegrates unless there are some *limits* on extreme individualism, and which is culturally valued precisely as a refuge *against* the competitive individualism of the market (where “private interests” reign). And so on.

In short, any treatment of public and private should begin by recognizing, and trying to clarify, the multiple and ambiguous character of its subject matter. Substantively, reflection on these issues suggests two interconnected conclusions. The first is the inadequacy of any single or dichotomous model of the public/private distinction to capture the institutional and cultural logic of modern societies. The second is that, while we should certainly not give up the effort to draw empirical and normative distinctions between public and private, we should not expect the public/private distinction to provide us with easy or straightforward solutions to our social, political, and moral dilemmas.

Public and Private: Some Basic Orientations

Any notion of “public” or “private” makes sense only as one element in a paired opposition (explicit or implicit). Let me first note that, at the deepest and most general level, behind the different forms of the public/private distinction are (at least) *two* fundamental, and analytically quite distinct, kinds of imagery in terms of which “private” can be contrasted with “public”:

- What is hidden or withdrawn vs. what is open, revealed, or accessible.
- What is individual, or pertains only to an individual, vs. what is collective, or affects the interests of a collectivity of individuals. This individual/collective distinction can, by extension, take the form of a distinction between part and whole (of some social collectivity).

We might refer to these two underlying criteria as “visibility” and “collectivity.” The two may blur into each other in specific cases, and can also be combined in various ways, but the difference in principle is important. When an individual is described as pursuing a private interest—or a group is described as pursuing a “special interest”—rather than the public interest, the implication is not necessarily that they are doing it in secret. The criterion involved is the second one: the private is the particular. Likewise, the basis for using the term “public” to describe the actions and agents of the state (so that public/private = state/nonstate) lies in the state’s claim to be responsible for the general interests and affairs of a politically organized collectivity, as opposed to “private”—that is, merely particular—interests. Treating the state as the locus of the “public” *maybe* combined with arguments for the openness or “publicity” of state actions; but it has been at least as common to claim that, in order to advance the public interest, rulers must maintain “state secrets” and have recourse to the *arcana imperii*. I will forego providing examples where the criterion of “visibility” is decisive, except to note that the use of the term “privacy” usually signals the invocation of this criterion, since it generally concerns things that we are able and/or entitled to keep hidden, sheltered, or withdrawn from others.

There are a number of ways that these underlying criteria can be conceived and combined to produce the various concrete versions of the public/private distinction. Among the broad fields of discourse within which different notions of “public” and “private” currently play important roles, I think the following are the most significant (though this list is *not* meant to be comprehensive):

I. The liberal-economistic model, dominant in most “public policy” analysis and in a great deal of everyday legal and political debate, which sees the public/private distinction primarily in terms of the distinction between state administration and the market economy.

II. The civic perspective, which sees the “public” realm (or “public sphere”) in terms of political community and citizenship, analytically distinct from *both* the market and the administrative state.

III. The approach, exemplified in different ways by the work of Philippe Ariès and Jane Jacobs (and other figures in urban criti-

cism, social history, and anthropology), which sees the “public” realm as a sphere of fluid and polymorphous sociability, distinct from both the structures of formal organization and the “private” domains of intimacy and domesticity.

IV. Those tendencies in feminist scholarship (and related areas) that conceive of the distinction between “private” and “public” in terms of the distinction between the family and the larger economic and political order—with the market economy often becoming the paradigmatic “public” realm.

In the space available, unfortunately, I can address only the first three, especially since feminist treatments of the public/private distinction have become too rich and diverse to characterize adequately in a brief discussion. And even the first three perspectives will have to be sketched very briefly.

I. The Liberal-Economistic Model: The Market and the State

This is the framework into which such terms as “public sector” and “private sector” usually fit, and which structures the great bulk of what is called “public policy” debate. The assumptions of neoclassical economics tend to dominate—which is to say, putting the matter into a grander theoretical perspective, the assumptions of utilitarian liberalism (nowadays often called “rational choice theory”). They are embedded in a characteristic, if not always explicit, image of social reality which, like most such images, has both descriptive and normative dimensions. What exists in society are: individuals pursuing their self-interest more or less efficiently (i.e., “rationally,” in the peculiar sense in which this term is used in utilitarian liberalism); voluntary (particularly contractual) relations between individuals; and the state. Thus, in practice the distinction between public and private—between the “public sector” and the “private sector”—usually means the distinction between “governmental” and “nongovernmental,” with the implication that this distinction should be as clearly and sharply dichotomous as possible. The field of the nongovernmental is conceived essentially in terms of the market. It is therefore not surprising that the use of the public/private distinction within this framework has characteristically involved a preoccupation with questions of *jurisdiction*, and especially with demarcating the sphere of the “pub-

lic” authority of the state from the sphere of formally voluntary relations between “private” individuals. These questions of jurisdiction tend to predominantly boil down to disputes about whether particular activities or services should be left to the market or be subject to government “intervention,” usually conceived in terms of administrative regulation backed by coercive force.

The fact that these disputes may often be quite bitter should not conceal the fact that both sides are operating within a common universe of discourse, drawing different conclusions from the same premises. They are simply replicating the two classic answers to the problem of order as posed by utilitarian liberalism. Locke and Adam Smith on one hand, Hobbes and Bentham on the other, might be taken as the most distinguished representatives of the two poles within this universe of discourse: the side that leans toward a “natural” harmonization of selfish interests, whose grand theoretical achievement is the theory of the market; and the more technocratic, social-engineering side, which posits the need for a coercive agency standing above society (epitomized by Hobbes’s Leviathan) that maintains order by manipulating the structure of rewards and punishments within which individuals pursue their “rational” interests. Given the underlying assumptions, the “invisible hand” of the market and what Alfred Chandler calls the “visible hand” of administrative regulation recur as the two key solutions.

What is missing from this picture? One writer who starts within this framework and deliberately brings out its limitations is Albert Hirschman, particularly in *Exit, Voice, and Loyalty*. “Exit”—which exercises an indirect pressure on the operation of “firms, organizations, and states”—is the only option of the “rational” individual of liberal theory. But that is inadequate as a mechanism to keep the world going. There is also a role for “voice,” which means participation in making (or, at least, influencing) decisions about matters of common concern. And for “voice” to work requires some degree of “loyalty.” Within the perspective from which Hirschman begins, “voice” is an imported category, and “loyalty” an essentially residual one; thus, both are only thinly fleshed out. But they point the way to the next perspective, which focuses on the problem of citizenship.

II. Citizenship: From the Polis to the “Public Sphere”

Here the “public” realm is the realm of political community based on citizenship. At the heart of “public” life is a process of active participation in collective decision making and collective action, carried out within a framework of fundamental solidarity and equality. This whole realm of activity, and the problematic it generates, are essentially invisible within the framework of the first perspective.

In a sense, “public” means “political” in both perspectives I and II. But these are very different meanings of “political.” For I, “political” or “public” authority means the administrative state. For II, “politics” means a world of discussion, debate, deliberation, collective decision making, and action in concert. What separates the problematic of citizenship, in any strong sense of the term, from the conceptual framework of liberal social theory is that the practice of citizenship is inseparable from active participation in a certain type of decision-making *community* maintained by solidarity and by the exercise of what used to be called republican virtue (or public spirit). In this context, it makes sense to speak, not only of “public” jurisdiction and “public interest,” but also of “public life.”

Both of these notions of “public” as “political” derive, ultimately, from classical antiquity, embedded in two basic models of the “public” realm. The first model comes from the self-governing *polis* or republic (*res publica*, literally “public thing”), from which we inherit a notion of politics as *citizenship*. The second model comes from the Roman empire, from which we get the notion of *sovereignty*: a centralized, unified, and omnipotent apparatus of rule which stands above the society and governs it through the enactment and administration of laws. The “public” power of the sovereign rules over, and in principle on behalf of, a society of “private” and politically passive individuals who are bearers of rights granted to them and guaranteed by the sovereign.

Many of the ambiguities in our thinking about politics stem from the fact that both of these underlying images have a significant presence in modern thought. An approach based on the model of sovereignty takes for granted, in its underlying premises, the separation between rulers and ruled (whether it takes the side of the rulers or of the ruled). Classical moral and political philosophy, however, took as its point of departure a fundamentally different, and considerably

more exceptional, model of politics, one based on a process of collective decision making by a body of citizens united in a community (albeit, of course, a restricted and exclusive community). Thus, the central image of “political” action as we find it in Aristotle is not domination and compliance (or resistance), but participation in collective self-determination. Aristotle’s classic definition of the citizen is one who is capable *both* of ruling and of being ruled. The appropriate sphere for domination is within the private realm of the household, which is structured by relationships of “natural” *inequality*: between master and slave, parent and child, husband and wife.

Both the notion of citizenship and the notion of sovereignty went, understandably, into eclipse in the middle ages. A significant element in the shaping of modernity has involved the gradual rediscovery of these notions and the attempt to realize and institutionalize them. Behind this process lie three grand historical transformations:

First, there is the development of modern civil society, which is the seedbed of liberalism. “Civil society” is another historically complex and multivalent term. Nowadays it is often used loosely to cover all desirable social arrangements, which is not the sense in which I am using it here. Following Hegel, I will use “civil society” to refer to the social world of self-interested individualism, competition, impersonality, and contractual relationships—centered on the market—which, as thinkers in the early modern West slowly came to recognize, seemed somehow capable of running itself.

The second transformation involves the recovery of the notion of sovereignty, to complement the notion of the atomistic liberal individual. To restate a point emphasized earlier, the liberal conception of the public/private distinction turns fundamentally on the separation between the administrative state and civil society—one dichotomy being mapped onto the other.

Third, there is the recovery of the notion of citizenship. From this perspective, the “public” realm is above all a realm of participatory self-determination, deliberation, and conscious cooperation among equals, the logic of which is distinct from those of *both* civil society and the administrative state. Arendt’s conception of the “public realm,” Habermas’s conception of the “public sphere,” and Tocqueville’s

conception of “political society” represent some of the more significant efforts to capture the distinctive character of this “public” realm, understood as the terrain of active citizenship. While their analyses differ in various ways, all of them bring home the need to go beyond dichotomous models of modern society. Thus, just as the “public” realm (and politics) cannot be reduced to the state, the realm of social life outside the state (and its control) cannot simply be identified as “private.” In this respect, the historical experience of state-socialist regimes has confirmed the insight behind one of Tocqueville’s characteristically paradoxical arguments in *The Old Regime and the French Revolution*: that, precisely as the centralized and bureaucratized French state achieved its apotheosis, *political* life was smothered and suppressed.

In short, these two notions of the “public”—and the two versions of the public/private distinction in which they are embedded—rest on crucially different images of politics and society, and a good deal of modern thought reflects the tension between them. However, they far from exhaust the significant discussion of public and private. For example, neither of them addresses the alternative vision of public life that links it, neither to the state nor to citizenship, but to sociability.

III. “Public” Life as Sociability

Consider this passage by Jane Jacobs from *The Death and Life of Great American Cities*:

The tolerance, the room for great differences among neighbors—differences that often go far deeper than differences in color—which are possible and normal in intensely urban life, but which are so foreign to suburbs and pseudosuburbs, are possible and normal only when streets of great cities have built-in equipment allowing strangers to dwell in peace together on civilized but essentially dignified and reserved terms. Lowly, unpurposeful and random as they may appear, sidewalk contacts are the small change from which a city’s wealth of public life may grow.

This conveys a rather different vision of “public life,” and of the public space in which it can thrive, from those at the heart of the civic perspective. The “wealth” of the “public life” celebrated here lies not in self-determination or collective action, but in the multi-stranded liveliness and spontaneity arising from the ongoing intercourse of

heterogeneous individuals and groups that can maintain a civilized coexistence. Without it, cities become increasingly unworkable, dangerous, and unlivable. Both of these forms, or aspects, of public life are valuable and ought to be encouraged; indeed, in the right circumstances they can even be complementary. But it is clear that they differ in their defining characteristics, requirements, and implications.

The key to this alternative version of the “public” realm is not solidarity or obligation, but sociability. Nor does this notion apply only to the life of great cosmopolitan cities. It is also what the social historian Philippe Ariès has in mind when he says that, in the society of the old regime, “life...was lived in public,” and the intense privatization of the family and intimate relations, with their sharp separation from an impersonal “public” realm, had not yet occurred.

Ariès makes this remark in the context of a sweeping interpretation of the transformations in the texture of Western society from the old regime to the modern era. At the heart of this picture—supported, in its essentials, by a wide range of other scholarship—is the decay of the older public realm of polymorphous sociability and, with it, the sharpening polarization of social life between an increasingly impersonal and severely instrumental “public” realm (of the market, the modern state, and bureaucratic organization) and a “private” realm increasingly devoted to creating islands of intense intimacy and emotionality (including the modern child-centered family; the modern ideals of romantic marriage and anti-instrumental friendship; and so on). For Ariès (to put words in his mouth), modern civil society represents not the “private” realm but the new “public” realm; the “private” realm is the realm of personal life, above all of domesticity.

Indeed, one of the most salient forms of the public/private distinction in modern culture (in both thought and practice) is that which demarcates the “private” realm of “personal life” from the “public” realm of *gesellschaft*, epitomized by the market and bureaucratically administered formal organization. This contrast is widely experienced as one of the great divides of modern life. But historically these two poles emerge together, to a great extent in dialectical tension with each other; and the sharpness of the split between them is one of the defining characteristics of modernity. In fact, many of these distinctively modern forms of “private” relationship take much of their

meaning from the fact that they are defined in opposition to the logic of *gesellschaft*. Ariès sums up his view of this process with this remark:

It is not individualism which has triumphed, but the family. But this family has advanced in proportion as sociability has retreated. It is as if the modern family had sought to take the place of the old social relationships (as these gradually defaulted) in order to preserve mankind from an unbearable moral solitude.

This is not necessarily a happy or secure solution. It is more likely that the emotional “overloading” of the domain of intimate relations will develop in tandem with the increasing emotional emptiness and isolation of an inhospitable “public” domain. Not that many of us would want to abandon the satisfactions of intimate life or the advantages of impersonal institutions: they are, at least potentially, among the benefits of modernity. But if they confront us as sharply dichotomized and exclusive alternatives, they add up to an unsatisfactory prospect. Once again, part of the solution, both theoretical and practical, lies in complexification—a key element of which would be the existence and vitality of a sphere of public life, in the sense of sociability, that can mediate between the particular intimacies of “private” life and the extreme impersonality and instrumentalism of *gesellschaft*.

The Great Divide—and Its Limits

I hope it is clear that this discussion has only scratched the surface of its subject. A number of crucial issues remain to be considered. For example, like Ariès, most feminist treatments of the public/private distinction have tended to treat the family as the paradigmatic “private” realm, in contrast to the “public” sphere of extra-familial economic and political activity. But, while the arguments discussed in section III focus on the ways that many of the characteristically modern forms of public/private division cut through the lives of both men and women, feminists have brought out important ways that these “domestic/public” divisions are gender-linked in terms of both social structure and ideology. Feminist scholars, among others, have also suggested how the impact of industrial capitalism, by sharpening the separation (in both reality and perception) between “home” life and “work” life, has helped to accentuate yet another dimension of the public/private distinction in modern societies. And so on.

The public/private distinction is irreducibly multiple, inherently problematic, and often treacherous. But the proper response is not, I think, simply to abandon it as unworkable, hopelessly misleading, and/or ideologically oppressive. It can also be a powerful instrument of social analysis and moral reflection if it is approached with due caution and conceptual self-awareness. It is, in any event, an inescapable element of the theoretical vocabularies as well as the institutional and cultural landscapes of modern societies. Thus, it can neither be conveniently simplified nor usefully avoided. The variability, ambiguity, and complexity of the public/private distinction need to be recognized and confronted—but so do the richness and apparent indispensability of this grand dichotomy.

Drawing by Leo Cullum; © 1997 The New Yorker Magazine, Inc.

Can Design Make Community?

Philip Langdon

Today's leading source of ideas on how to design American communities is not a high-tech urban laboratory or a latter-day Buckminster Fuller but something much less exotic: the places Americans built in the 19th century and the early decades of the 20th. Why should these older communities exert such power over designers' and planners' imaginations? Because these old places tended to be—and in many cases still are—more complete and more well-rounded than the single-purpose subdivisions of the last 40 years.

In the test of time, communities built in the early 1900s have turned out to be much more soul-satisfying than the developments churned out since World War II. Communities in the early 20th century and before frequently had an intimacy that supplied a joyful depth (and a dollop of gossip) to everyday life: Adults knew most of their neighbors, their character, and their idiosyncrasies. Children walked to school, church, and ball fields on a grid of well-watched sidewalks. The essentials of daily life were close by—in corner stores, neighborhood bakeries and taverns, and other locally rooted enterprises. In their heyday, eloquently recounted in Alan Ehrenhalt's *The Lost City*, neighborhoods like St. Nick's parish in Chicago's "bungalow belt," or Bronzeville, in that city's not yet devastated black ghetto, possessed a combination of customs, institutions, and authority figures that helped to discourage bad behavior and encourage responsibility.

Though by no means problem-free, the neighborhoods built three or more generations ago had resources for overcoming setbacks, and

offered plentiful satisfactions for people of every income level. For that reason, traditional neighborhood and town designs are increasingly being deployed against contemporary American ills: isolation, diminished community life, and inadequate guidance for the young.

The Physical Elements of Community

Those who are reapplying the principles of older communities generally choose one of three names for their work: “Traditional Neighborhood Development,” “Neotraditional Development,” or “New Urbanism.” The first two are fairly easy to understand. Murkier is the term “New Urbanism,” which was coined in an attempt to provide a common umbrella for those who want buildings and towns to look like places from the past and those who, on the other hand, believe in historically effective community layouts but prefer their buildings distinctly modern. In any case, the style of the architecture turns out to be of secondary importance. It is the community *layout*, culled from American and, in some cases, European experience, that is critical to the aims of this movement.

What are the key precepts of the New Urbanist community? Above all, a belief in the importance of the public realm—streets, sidewalks, parks, and gathering places. In a well-conceived New Urbanist community, the individual buildings work together to form coherent public spaces, where people will see and talk with one another. A New Urbanist residential area is almost always a walking neighborhood; houses are close enough together and close enough to the street that neighbors cease to be strangers. The architects who have done the most to push this movement into public consciousness, Andres Duany and Elizabeth Plater-Zyberk of Miami (allied with others such as Berkeley architect Peter Calthorpe), lay out neighborhoods on the basis of a “five-minute walk.” Within a quarter-mile a resident should reach a neighborhood park, services such as a dry cleaner and a convenience store, and a spot where buses, trains, or shuttles can stop. In prominent locations within the community are schools, churches, and civic buildings—testaments to the New Urbanists’ insistence on using the power of architecture to affirm civilization’s highest strivings.

New Urbanist developments tend to have narrow streets (to slow the traffic), on-street parking (to shield pedestrians from the passing vehicles), front porches (preferably at least eight feet deep, to encourage people to use them), and public ways with pleasant, well-defined edges—picket fences, hedges, rows of trees. Garages are dethroned from their place of honor in the modern subdivision. No 18-foot blankness of garage door dominates the street—New Urbanists relegate the garage to the back of the lot (where it stood inconspicuously in the 1920s and '30s), or they recess it behind the house's facade or put it on an alley, making the house once again an attractive, expressive part of the public scene.

According to the newsletter *New Urban News*, over 100 such developments are currently in planning or under construction, most of

them in a broad territory from Pennsylvania and Maryland through Virginia, the Carolinas, Florida, Alabama, and Tennessee, plus Colorado and the Far West. The most ambitious development to break ground is Celebration, a town for up to 20,000 inhabitants that the Walt Disney Company began building two years ago on the outskirts of Orlando. Two notable developments closer to completion are Duany/Plater-Zyberk's Kentlands, a 356-acre undertaking begun in 1989 in Gaithersburg, Maryland, within commuting distance of Washington, D.C., and Harbor Town, a 130-acre project planned by RTKL Associates of Baltimore and begun in 1989 on Mud Island in the Mississippi River, a bridge trip away from downtown Memphis.

The Web of Community

New Urbanists seek more than pleasant aesthetic effects—they aim to create a different, more neighborly social life within their communities. The crucial question therefore is: Do their grids and buildings and design principles actually achieve this? Do these places turn out to be the cohesive neighborhoods that their developers promise? To answer this, I interviewed people living in Kentlands, Harbor Town, and older towns built along the lines the New Urbanists are trying to revive. I discovered that on the whole these communities deliver what the New Urbanists say they will. With shallow front yards and smaller house lots than in most conventional developments, residents say there is a noticeable increase in neighborliness. “If you’re out doing yard work, everybody stops and chats,” says Steve Christian, a Kentlands homeowner. “After a big snowfall, we helped each other shoveling the driveways and all had chili afterward. There’s more of a sense of a community than anywhere else we’ve lived.”

Steve’s wife, Sandra, a stay-at-home mom, told me she had felt “terribly isolated” in the townhouse development where they lived before moving to Kentlands. “It cleared out at 9 a.m.,” she recalled. By contrast, at Kentlands, where she takes care of their young son except when volunteering at the white-columned Rachel Carson Elementary School, there are a number of parents around during the day, and they are easy to meet, since the houses are close together and people frequently go out walking—to the swim club, to a nearby shopping center, to the lake, or to nowhere in particular.

Harbor Town resident Jim Howell says that in the conventional development where he previously lived, on the east side of Memphis, he and his wife “might have known two to three neighbors on each side of us. Here at Harbor Town, we know 50 neighbors. You live closer together, the streets are narrower, and you know so many more people because you’re out walking and things are going on. People in the afternoon are out in the yard or on their porches. They bring grills out to the garages. There’s a cocktail party in somebody’s house.” After Jim’s wife, Amy, gave birth last summer, six- and seven-year-olds would come to the door and ask, “Is it convenient for me to come and see the baby now?” Jim observes, “It’s a more protective environment.”

This setting benefits children as much as adults. Youngsters in a traditional neighborhood obtain a healthy degree of autonomy—difficult to get in a cul-de-sac subdivision. More is within easy reach because of the compactness, and there are numerous routes everywhere over an extensively connected street network. Faith Kusterer, a Kentlands mother, notes that her daughter Elena *walked* to the piano lessons she took for two years in the home of her instructor, a woman they knew within the development. “She could go to the store alone on her bike to get anything from candy to school supplies,” Mrs. Kusterer added. “It’s afforded her some opportunities to be out in the community and to be independent.”

James Krohe Jr., a writer who lived and worked for six years in Oak Park, Illinois—a gridplanned Chicago suburb founded in the 19th century, now containing 53,000 people in its 4.5 square miles—says that in many old communities the availability of public transportation helps youngsters to explore their world and to mature. “It was not unusual for Oak Park kids 13 or 14 years old to have a relationship with the larger city—to take classes or go to private schools in the city,” says Krohe. “Compared to the suburbs immediately to the northwest that were not served by Els [Chicago’s elevated public transit lines] and that were less served by commuter rail, kids in Oak Park were much more comfortable moving about in the larger metropolis.”

What the vast majority of developers seem to have forgotten, then, in creating the automobile-dependent suburbs of the past half-century, is that youngsters need a modulated introduction to the world

beyond their block, so that they can cope with, and learn to thrive in, a country that has never been, and never will be, entirely safe or homogeneous. The typical suburban subdivision of the last few decades tries in the main to *withdraw* its children from society's difficulties, inadvertently leaving them without the skills and judgment to manage unfamiliar situations. "There's a fearfulness I find in kids in the newer suburbs," Krohe says. "They can't mix. They can't go anywhere without private transportation. The most horrific examples of violence I recall in the Chicago area were kids from the suburbs who got lost in the city and were raped or robbed because they weren't prepared and didn't know what to expect." Youngsters from Oak Park, by contrast, learn to size up situations "so they won't be bullied so easily when they are exposed to danger," Krohe observes. "It makes them competent and confident members of a larger society."

It Takes a Village

Of course, minor troubles occur everywhere. In compact traditional communities they are likely to be noticed and to stir a response. In Shorewood, Wisconsin, an early-20th-century Milwaukee suburb, Philip Nero tells of the time his son fell from his bike, and a man who saw the mishap comforted the boy and walked him the rest of the way to school. Would this happen in a conventional subdivision? Sometimes. But the closeness and visibility characteristic of a traditional community makes it easier for such acts of neighborly assistance to take place.

By the same token, misbehavior, when it occurs, is also likely to be noticed. "When kids do something they shouldn't, they are often caught doing it," says Barney Gorin, a Kentlands homeowner. "They're often yelled at by somebody other than their own parent. For example, one neighborhood kid set off a smoke bomb in someone's house. After that, he was in deep trouble with a big chunk of the neighborhood." For some time, his movements were closely monitored by adults leery of what would happen next. "Since then," Gorin relates happily, "his behavior has come around to where it should be."

Many New Urbanist communities feature a range of housing, not separated into rigidly exclusive tracts. Kentlands contains apartments, row houses of varying sizes, and detached houses. Above the

garages of some of the detached houses are small units that can be rented out or used as home offices. Mostly these are rented to singles. The result is neighborhoods with some diversity of ages and incomes—from young renters on tight budgets to middle-aged and older people with comfortable incomes. (Duany initially argued that auxiliary apartments would enable grandmothers to live next to their children and grandchildren; so far, extended families do not appear to be in a rush to reassemble in this fashion.)

Residents of New Urbanist neighborhoods generally prefer a degree of diversity, believing it helps ward off the insularity exhibited by subdivisions containing only a thin slice of society. “I’ve always thought it’s very important for our children to know lots of adults other than us—to have other role models, models of decent human beings—and that certainly has happened here [in Kentlands],” says Mrs. Kusterer. Family breakups do occur—whether at the same rate as elsewhere is not known. Sociologist Ray Oldenburg, in his 1989 book *The Great Good Place*, argues that an absorbing community life relieves some of the pressures on a marriage and consequently promotes family stability.

In any event, the mix of age groups, when combined with a traditional community’s close-knit social structure, offers what is probably a stabilizing influence for the children of divorce. In Mariemont, Ohio, a leafy one-square-mile suburb of Cincinnati laid out in the 1920s and interwoven with apartments, row houses, duplexes, and detached dwellings, there are many older people, and a number of them volunteer for an after-school program for children, many from single-parent families. Former mayor Richard Adams says quite a few single-parent households have moved to row houses in Mariemont from other municipalities, in part because children in the village of 3,100 receive a traditional community’s tremendous social asset—a balance of supervision and community-monitored freedom of movement that is hard to achieve in a conventional subdivision.

In a vigorous traditional community, institutions spring into being as conditions call for them. Fifteen years ago, for instance, Mariemont generated an organization of residents 55 and older, the MariElders, which reaches out to elderly people who have begun slipping into isolation. Supported by village taxes, the MariElders

involve people in tours, lectures, card games, and other activities. The organization has been invaluable, Adams says, because “there were an awful lot of people who were eating alone all the time.” Kentlands, too, is giving birth to an energetic institutional life. The three-year-old Kentlands Community Foundation promotes educational programs, as well as charitable and philanthropic work in the Gaithersburg area, including concerts, town lectures and debates, and food and clothing drives. Every time a house is sold, four months of homeowners association dues are allocated to the all-volunteer foundation. The homeowners association so far has given the foundation more than \$117,000. Traditional communities foster in their citizenry the ability to use local government to positive effect. In a place like Oak Park, Krohe says, “government is big enough to do you some good, but small enough that you feel you could have some impact on it. There is a sense of interdependence, unlike the sense in the outer suburbs that government is just a nuisance that takes your taxes.”

Hopeless Nostalgia?

New Urbanists are sometimes criticized for promoting a nostalgic vision that does not square with how Americans actually live at the end of the 20th century. Many of the criticisms, however, are half-truths.

Consider the charge of “classism.” Some assert that New Urbanism is an upper-middle-class phenomenon ill-suited to the majority of Americans. It is true that much of the New Urbanist housing in the suburbs is beyond the financial reach of poor families. But this is a function more of suburban real estate economics and exclusionary zoning than of some inherent flaw in New Urbanist concepts. There are New Urbanist developments that do in fact house people of modest income. In Starkville, Mississippi, for more than 20 years, Dan Camp has been building the Cotton District, a compact, pedestrian-scale precinct with a charm redolent of Charleston, South Carolina—and he has been doing it with inexpensive houses and small apartments whose monthly rents range mainly between \$250 to \$550, with no government subsidy of any kind. A former shop teacher with a love of architecture and urban design, Camp has mastered the art of constructing dignified, well-crafted dwellings on cheap land.

Cotton District, Charleston, South Carolina

If New Urbanism were just for the affluent, there would be no Cotton District. Nor would there be a renovated public housing project like Diggs Town in Norfolk, Virginia—a formerly crime-ridden slum that has been made livable through New Urbanist techniques. Pittsburgh-based UDA Architects, a practiced exponent of New Urbanism, cut new streets and sidewalks through Diggs Town’s anonymous no-man’s-lands and added sociable porches to the fronts of apartment buildings. Occupants were given individual front and back yards, sometimes bounded by picket fences to create the careful gradations of public and private space that fostered order and control in neighborhoods years ago. Those alterations, carried out with the intention of nurturing neighborliness and safety, have cut lawlessness substantially and generated a sense of community. Diggs Town is far from unique. Henry Cisneros, in his last year as Secretary of Housing and Urban Development, declared that New Urbanism would be a central element in the federal agency’s efforts to salvage housing for the poor in cities around the country. New Urbanism is not a toy of the affluent.

A second line of criticism focuses on modern mobility: People's employment, shopping, and leisure activities are now scattered across sprawling metropolitan areas, so it is futile to try to inculcate a sense of geographic community. True, few of the people who live in Kentlands or Harbor Town also work there and form all their meaningful social connections within its boundaries. What is especially troubling is the difficulty New Urbanists have run into in their attempts to build up a cadre of local merchants and other businesspeople, who in the past were indispensable elements in a town's or neighborhood's identity. One remedy for this may be public policies that encourage developers to include employment and retailing in their plans. Developers may have to make special efforts to attract owner-operated retailers—perhaps by granting them financial concessions. Duany has argued that developers should regard local stores as an amenity, just like a park or a recreation complex, and subsidize it, at least in the beginning. He also argues that the number of stores in these developments will grow over time, since retailing follows, rather than leads, population growth.

The idea that people are destined to have ever weaker neighborhood ties seems questionable in light of the increasing number of people working at home either part- or full-time. With the growth of computers, faxes, modems, and other modern communication devices, it may be that *more* people, rather than fewer, will be both living and working in the same place. As that happens, it will be important for these home-based workers to have services and gathering places, such as cafes, close by. Neighborhood gathering places could offset the isolation of working alone and help generate a never-obsolete quality: geographic community. To accomplish that, New Urbanist instruments of physical design will be invaluable.

Of course, with a whole generation of Americans having grown up in isolated outer suburbs, such neighborly interdependence may, unfortunately, not be what most people immediately look for when they shop for a home. In the *Washington Post*, reporter Steve Twomey told of Lori and Bob Scarbrough, who had lived in Herndon, Virginia, a suburb where they and other residents would pull their car into the garage, enter the house by an interior door, and rarely have contact with the neighbors. When they first looked at Belmont Forest, a New

Urbanist town that Duany/Plater-Zyberk designed in northern Virginia, the Scarbroughs, now in their early fifties, were concerned that the houses were built too close together. But they moved in, and now love the coziness and neighborly camaraderie. Libby and Walter Cable, who arrived in Belmont Forest from a similarly isolating suburb in Annandale, Virginia, were likewise concerned at first that they would lack privacy. But now, as they share the close-knit community with their two daughters and grandchildren and swap front-porch talk and visits with neighbors, they think of their new surroundings as a supportive and comforting re-creation of the small-town life of their upbringing.

Allison Bradfield, who lives with her husband and two small children in Belmont Forest, finds that the sidewalk activity, the front porch life, and the sheer proximity of dwellings in the neighborhood counteract the anonymity of the usual suburban development. She knows every one of the 12 families on her street, she reports, and “what all of them do, where they’re from, and what they want of life.” She acknowledges that “if you didn’t want to know your neighbors, you wouldn’t want to live here.”

That is perhaps the biggest issue of all facing proponents of New Urbanism: Just how many Americans are there who actually want to live in a community where they will know their neighbors, and be known by them? Are walkable neighborhoods just a small market niche, or something that millions of American families would find to their liking?

Probably the strongest indication that the New Urbanist town is more than a hobbyhorse for nostalgic visionaries is the Walt Disney Company’s decision to build an entire New Urbanist community near Orlando, complete with schools, parks, lakes, an old-fashioned walkable downtown, a health campus, up to one million square feet of office space, and neighborhoods full of houses in historical styles. Celebration started construction in the spring of 1995 after nine years of painstaking preparation, involving the prominent New York urban design firm Cooper, Robertson & Partners in cooperation with Robert A.M. Stern Architects. This is no minuscule niche project—its 4,900-acre tract, buffered by a 4,700-acre greenbelt, is to be developed with up to 8,000 houses and apartments. It has been estimated that by the

time Celebration is completed in eight to ten years, some \$2.5 billion will have been invested. Celebration elevates New Urbanism from the province of mostly small, local, and often contrarian developers to the realm of amply financed corporations. As America's leading caterer to the middle-class imagination, Disney, in its new community-building role, has already stirred great interest among architects, builders, and developers, not to mention the general public. With the level of talent that Disney is able to call on, Celebration will likely be good enough, big enough, and conspicuous enough to affect the direction of American building.

Obstacles in the Road

New Urbanist communities, then, tend to uphold central principles of good citizenship: vigorous involvement in a geographic community; interchange with people of different stations in life; a healthy combination of guidance and independence for youngsters; responsive local government; and local support of culture, charity, and philanthropy. All of this amounts to a kind of communal bulwark against the impersonality and materialism of today's mass culture. If the true test of New Urbanist design is how the people within its boundaries conduct themselves, particularly their public lives, then by that standard New Urbanism seems to be a success.

It is indisputable that for every Kentlands that is under construction, there are still a hundred newly built Isolation Estates, where the family of a physician never crosses paths with the family of a mail clerk, and where there is little incentive to stroll down the block, because it is a dead end. And even in traditional communities, whether new or old, it is a formidable task to attract and keep assortments of small, locally owned stores—in times past, the very embodiment of a neighborhood's personality and convenience. The vastly enlarged consumer market-sheds created by the automobile have caused a large decline in mom-and-pop establishments, a loss that traditionalists, despite their ambitions, are hard pressed to combat.

Nonetheless, the New Urbanist movement is the brightest hope to arise in community design in a long while. The next step is to break down the barriers that prevent developments like Kentlands and Harbor Town from being built in much of America. The inflexible

hand of zoning should be loosened so that mixtures of housing—gradations of different kinds, sizes, and prices—can be included in a community, and so that small stores, cafes, and other hallmarks of a sociable neighborhood can legally be built within walking (or biking) distance of people’s homes. Transportation departments must change their standards—which favor wide roads and maximum vehicular use—and start injecting pedestrian comfort into their calculations, for walking is a prime source of community consciousness.

If we are serious about building cohesive communities, we would demand that governmental and educational institutions reconsider their policies on what to build and where to build it. Branch post offices would not be oriented mainly to the convenience of 18-wheelers, but would be designed to enhance community gathering places; few services generate as much local interchange as a well-placed post office. Boards of education would integrate their schools into neighborhoods rather than granting educators their selfish wish for dozens of acres of parking, lawns, and athletic fields—a wish that consigns high schools to edge-of-town sites and prevents students from circulating through the community and its business section, the way students did in an era when town centers contained the communities’ major functions.

If we take the well-being of communities seriously, we would do all these things and more. The past half-century has been spent creating a smooth, well-advertised world of shopping malls, megastores, profusely equipped houses, and the ultimate in private motorized transportation—a consumer paradise, in the view of its proponents, but in reality a centerless zone where what is on TV seems more compelling than the public life outside the door. We can do better. If we turn our energy to it, the lives of individuals, families, and communities will reverberate with the improvement.

Social Security and the Dividing of the American Community

Jeff Madrick

The recent intense interest in reforming Social Security brings to light a question about the American political system that is rarely considered in the public policy debate: What do we owe our fellow citizens? The original Social Security system provided one answer. The current proposals to privatize Social Security—including two supported by the presidentially appointed Advisory Council on Social Security—provide quite another answer. Instead of calling upon Americans to view the welfare of the overall community as a valid concern for everyone, these new privatization proposals would increasingly set one American against another. If you believe, as I do, that our national community is strengthened by an extensive Social Security system so long as it is consistent with financial responsibility and economic growth, then the new reform proposals should be seen as a danger. They will undermine our national unity. Furthermore, while there is need for reform of Social Security from a fiscal perspective, the system does not require the dramatic overhaul that many critics now demand.

Crisis?

Our nation's trend away from communal welfare has occurred at a time when the United States is already more economically divided than it has been in decades. There is an increasing and well-documented divide between the "haves" and the "have-nots." While proposals to privatize Social Security were unthinkable only a couple of years ago, in this current environment they have caught on with

ease. An article favoring privatization by a World Bank economist, published in late 1994 (“Averting the Old Age Crisis”), may have provided the initial momentum. A bevy of alarmist books and articles from Wall Street and from often well-meaning reformers (including Sam Beard, the liberal inner-city developer) began to spread the doctrine. It is not all alarmist hyperbole, however: two privatization plans have gained the support of 7 of the 13 members of the Social Security Advisory Council. These are neither naive nor uninformed people.

Before we examine privatization, let us be clear about one important fact: the Social Security system, though there is much to worry about, is not about to collapse. There will probably be a significant shortfall in the funds needed to meet Social Security obligations 25 to 35 years from now for two well-publicized reasons. First, as baby boomers begin to retire in about 15 years, too few workers will be available to support the swelling number of Social Security recipients. In 1960, for example, there were five workers for every retiree. The ratio will fall to three to one in 2020 and about two to one in 2030. Second, life expectancies are rising rapidly, which requires that Social Security payments be significantly extended well beyond the expectations of those who founded the system in the mid-1930s.

Social Security taxes paid by still-employed baby boomers, plus interest on assets, will be sufficient to meet Social Security’s obligations until 2019 as well as accumulate assets in the trust fund that will total \$3.3 trillion. The trouble begins after that. In the 2020s, obligations in nominal dollars will begin to exceed the income from Social Security by \$200 to \$300 billion a year. (This is roughly \$150 billion in inflation-adjusted 1997 dollars.) If the trust fund is borrowed against by the Treasury over these years, which is likely, the federal government will have to borrow an average of \$300 billion a year in order to meet these obligations.

Alarmists can make much of this shortfall. Many combine the anticipated Social Security deficit with the Medicare deficit to demonstrate the extent of the burden we may face. True, Social Security, Medicare, and Medicaid could amount to some 19 percent of GDP over the next generation, compared to 9 percent today. But the healthcare deficits are expanding much more rapidly than those of

Social Security. While it could well be that Social Security will one day be held hostage to unaffordable federal healthcare programs, what may surprise many readers is that to fix Social Security alone requires new revenues of only 2.2 percent of wages. This could be met by raising taxes, a suggestion that is politically impractical now. It could also be met by adopting a variety of moderate reductions in benefits, such as raising the retirement age, taxing more benefits, and changing the wage formula on which benefits are computed. Even if nothing is done, according to the intermediate assumptions of the Social Security Administration, the federal government will still be able to meet 75 percent of Social Security obligations for the next 75 years. This will require adjustments, but it hardly constitutes a collapse of the system.

Purposes of the Past, Proposals for the Future

Given the option of preserving the program, then, we need to evaluate how successful Social Security has been thus far. About 90 percent of elderly Americans today receive Social Security benefits. The program has reduced the proportion of the elderly with incomes below the federally defined poverty lines from 35 percent in the mid-1950s to about 12 percent today. If they did not receive Social Security benefits, which average only about \$8,000 a year for a single person and about \$14,000 a year for a couple, more than half of the elderly would see their incomes fall below the poverty line. Social Security provides important disability and death benefits as well; for example, 98 percent of all children whose parents die receive an average cash benefit of \$700 a month.

What may be its most important characteristic from the community's point of view is that Social Security benefits are progressive. Lower-income workers get a higher proportion of their income back in benefits. For example, workers who earn half of the nation's average wage receive 56 percent of their wage in benefits under the current system, whereas high-wage earners receive only 28 percent of their wages. Because of this compelling combination of efficacy and progressivity, strong support for the program among Americans still exists despite widespread criticism of the system. Still, if privatization could work better than the current system, we should endorse it. So let's examine the options.

When advocates speak of privatization, they are not suggesting that we sell the entire system to the highest bidder, such as Fidelity Investments or Citicorp, and leave the future of the elderly solely in their hands. (The fear is that they might follow the precedent of some private health insurance companies, which accept some more “attractive” applicants over others.) There is also an unwarranted concern about investing Social Security trust fund surpluses in stocks, an issue that was raised by the President’s Council of Economic Advisers in the 1997 Economic Report of the President. To let such surpluses (which, as noted, could exceed \$3 trillion by the late 2010s) earn a low rate of return on government bonds for two and a half decades would be irresponsible.

However, the privatizing of Social Security entails significant financial and political risks, and as I have indicated, the current system can accomplish the same goals with only moderate reforms. The argument I pose against privatization is entirely pragmatic.

How would privatization work? Generally, privatization plans allow workers to invest a portion of their current Social Security taxes independently. To make the plans financially feasible, it is then required that either taxes be increased from the current level of 12.4 percent of wages (shared equally by employers and employees), or a mandatory savings program on all workers be imposed. In the specific case of a privatization plan sponsored by five members of the Social Security Advisory Council, known as the Personal Security Accounts plan (PSA), payroll taxes would be increased by 1.5 percent, raising the total to 13.9 percent. Five percent of that total would be invested individually by workers, and the rest would go to support a minimal Social Security system for those who don’t earn enough to rely on the individual savings accounts, and for those workers who invest poorly. Another, more moderate, proposal known as the Individual Accounts plan, was sponsored by two of the Council members. This plan would place a mandatory savings plan of 1.6 percent of wages on top of current payroll taxes, which individuals would privately invest.

Presumably, individuals would earn significantly greater returns on the money they invest independently in PSAs or Individual Accounts than from the current Social Security program. Until these accounts built up value, however, a set of benefits would have to be

maintained for all workers; this would be costly. Not only would taxes have to be raised, but both of the above proposals would require the government to borrow an additional \$1 trillion to cover the transition costs. Eventually, this so-called “tier one” strategy would become the minimum protection, safeguarding the low-earners and poor investors. (If past experience in the securities markets proves an accurate predictor, we could expect a high proportion of workers to invest poorly.)

Leaving Some Behind?

But what degree of protection would the so-called tier one provide? In the PSA plan, the minimum set of benefits comes to a flat rate of about \$410 in today’s currency, about half of the current average level of benefits. This would actually be an increase for some very low-income workers or those with spotty work histories. But for most workers, it would amount to a serious cut in benefits that would have to be made up by investments in the public savings accounts. Comparatively, in the Individual Accounts plan, benefits are reduced by an average of 17 percent. The retirement age would also be raised.

When the advocates of these plans make projections, they do not fully take into consideration the extent of risk and variability that is involved. Their implicit predictions that almost everyone will do well over time stem from an assumption that individuals will invest in equities that will not only outperform bonds, but also outperform the current returns on Social Security contributions, which are declining dramatically as fewer workers have to support more retirees.

But these projections disguise a troubling aspect of these plans. Privatization strategies are generally much less progressive for many (probably most) workers than is the current system. This is because tier one becomes a much smaller proportion of the retirement package, while the individual accounts, which are not progressive at all, become a larger proportion. When dealing with individual savings accounts, you simply get out what you put in, plus the yield on the investment. The \$60,000 earner will have a retirement fund that is worth about three times what the \$20,000 earner will have if both invest 5 percent of their money equally well. Meanwhile, the additional taxes or the mandatory savings program that the privatization

proposals require are applied regressively. Lower-income workers pay in taxes or are required to save the same percentage of their earnings as higher-income workers. The current payroll taxes, one may understandably argue, are already regressive enough.

Are the higher benefits worth the lost progressivity? In my opinion, these plans are unwarranted; I see it as entirely possible to accomplish the same objectives under the current Social Security system. Specifically, the federal government could itself invest the trust fund in equities, thereby raising the payoff for most Social Security recipients. This would have two advantages. It would eliminate the cost of protecting the many investors who will do poorly in the market if they invest privately. And it would keep investment fees to a minimum.

A third proposal follows this route. The Maintain Benefits plan, supported by six members of the Advisory Council, suggests ultimately investing 40 percent of a slightly higher trust fund in equities. This plan would restrict these equity investments to index funds designed to reflect almost precisely the broad market averages; investment fees for such funds are very low. By contrast, some analysts believe that the privatization program operating in Peru, which is widely applauded by advocates, has administrative and investment fees of as much as 15 percent of benefits. (Administrative fees for the current Social Security program come to less than 1 percent.)

The greatest risk of privatization, however, may well be the dividing of the society between those mostly dependent on the minimum benefits of tier one and those whose individual accounts will provide the large share of their retirement packages. What might happen a couple of decades hence when America's more privileged workers begin to notice that the first tier is not very remunerative for them? By then, they may come to think of the first tier as a welfare program that is unjustifiably taking money out of their pockets. Would Americans reduce their support for such a plan? Advocates of privatization insist the public would never be this callous; given our strongly supportive feelings about Social Security today, it might seem unlikely that we would ever countenance such an action. Twenty-five years from now, however, it might not be so unlikely. "In the U.S., a program for the poor is usually a poor program," Wilbur Cohen,

President Johnson's Secretary of Health, Education and Welfare, repeatedly warned.

The Community of the Whole

In my view, these privatization plans ultimately lead us away from our desired destination as a community. Our social programs should be designed to cover the poor and the middle-class alike, much as public education always has. For example, consider if we created early education or day-care programs that covered 90 percent of American families rather than just the poor, much as Social Security now includes 90 percent of the elderly. Such programs would likely contribute to a sense of mutual participation in government benefits, and thus encourage more unified support.

In short, the current system can accomplish everything that privatization is proposing to do, but at less immediate cost, with less risk for many workers, and without forfeiting the communitarian nature of Social Security today. As noted, it can even raise the so-called "money's worth" of Social Security through federal investment in equities. This is no small matter, since today's workers will not earn a decent return on their Social Security contributions compared to what workers earned in the past. The benefits paid to current retirees amount to about a 6 percent annual return on contributions; young workers today will probably earn—at best—a 1 or 2 percent annual return. For some high-income workers, the returns could be negative. Nevertheless, as I indicated, you don't have to privatize Social Security to improve "money's worth." Furthermore, the risk of federal investment in equities can be minimized by raising the level of equity investments very gradually so that a sharp but temporary fall in stock prices doesn't jeopardize the ability to meet annual obligations.

What, then, is left to be gained by privatization? Advocates point out that such a system would be fully funded, and that America's retirement benefits would thereby be assured. But America shows no sign of backing off of its annual obligations, and there are no moves being made to pre-fund defense spending or unemployment insurance. The pre-funding required by privatization is so expensive as to be impractical.

Advocates of privatization raise one last point which has, for many, become the main issue. They want to raise the nation's savings, and thereby fuel the capital investment needed to raise the rate of growth of the economy, through reforms of Social Security or the imposition of mandatory savings on the public. They think that Americans will support such an increase, and indeed save more, if they can invest the money themselves. But American incomes are not infinitely elastic. The additional money individuals are required to save or pay in taxes will largely and perhaps entirely be taken out of their voluntary savings.

Furthermore, it is not obvious that a lack of savings is America's most significant economic problem. For example, the growth of productivity of capital has been remarkably slow in the past two decades, suggesting that any extra dollar of capital will not make much difference to the nation's rate of growth. New taxes or mandatory savings might even slow economic growth, reducing the income from which savings must be taken. In my view, a modest increase in savings is desirable, but we don't have to privatize Social Security to try to raise the nation's savings. Instead we can raise current payroll taxes, or reduce benefits, so that the Social Security trust fund assets grow more quickly.

The disservice done by these privatization proposals is that they are making the practical, necessary reforms of the Social Security system more difficult to make. Rapid economic growth and a rising standard of living were once crucial to our communitarian spirit and our history as a nation. Now, as our incomes grow more slowly, and we experience rising financial insecurity, we turn from helping each other to safeguarding our own interests. What we must now do is preserve our interest in community in the absence of the rapid growth of standards of living that characterized the nation's earlier days; we must embrace programs which unify, not further divide, the people of this nation. As the debate over Social Security privatization suggests, we have the means to do so.

Concealed Handguns: The Counterfeit Deterrent

Franklin Zimring and Gordon Hawkins

There is a new wrinkle this season in the tired debate about gun control in the United States. A statistical analysis has been released with the flamboyantly specific claim that relaxing the remaining restrictions on concealed handguns in the United States would prevent “approximately 1,570 murders, 4,177 rapes, and over 60,000 assaults” each year. According to the study’s authors, John R. Lott Jr. and David B. Mustard, the “estimated annual gain from allowing concealed handguns is at least \$6.214 billion.” This estimate was based on a multivariate regression analysis that showed lower murder and crime rates in jurisdictions that had made it easier for citizens to obtain permits to carry concealed firearms on their persons and in cars.

This new “right to carry” study is newsworthy in three respects. First, the crime prevention claims are very large and yet the legal changes necessary to achieve them are modest and do not involve financial costs. Here lies the promise of crime control on the cheap. Second, the people making these claims are not from the local branch of the National Rifle Association. The study is authored by a postdoctoral fellow in law and economics and a graduate economics student at the University of Chicago. Any connection of research to a reputable institution of higher learning is worthy of notice in a field where so many “studies” are transparent special pleading.

Third, from the perspective of a television news producer, the most exciting aspect of this new study is the method by which the legal changes are supposed to save lives and reduce crime. Whereas most observers worry that the city streets of the United States have too many

people carrying guns on them, this new study announces that increasing the number of loaded handguns on our streets will reduce the number of citizens killed and wounded. This is what newspaper editors in bygone days used to call a “man bites dog” story. What could be more paradoxical than asserting that the current violence problem could be ameliorated by more guns rather than fewer?

Released to the press five months prior to its publication in January 1997, this new analysis of right-to-carry laws is becoming a discrete chapter in the debate about American policy toward guns and violence. The Lott and Mustard claims are of special interest to this journal’s audience for two reasons. First, the substantive question of whether more guns or fewer is the appropriate path to safer communities is of obvious importance. Second, the data and methods encountered in this study are typical of a genre of studies using multiple regression techniques to support statements about the effects of government policy. Are these reliable methods of determining the impact of government policy? What are the limits of the methodology? For communities to have reasonable dialogues about issues of importance—and given that people will often turn to “experts” for analysis—these questions are of more than just theoretical importance. Thus one goal of this essay is to make the seemingly arcane world of econometric models more accessible.

This essay will tell the “right-to-carry” story in four brief installments. We will first describe how state laws dealing with carrying concealed firearms became an important part of the politics of gun control in the 1980s, and how state level politics determined which states passed the National Rifle Association-sponsored legal changes. Those demographic factors are crucial to evaluating the validity of Lott and Mustard. Having described the origins of the legal changes, we will then turn our attention to the data assembled by Lott and Mustard to evaluate the impact of right-to-carry laws. The third section describes some of the statistical materials that have been put forward by critics of the Lott and Mustard study, materials that cast doubt on the causal relation Lott and Mustard advance.

The final section contrasts the debate about concealed weapons laws with the accumulating evidence on the influence of gun use on

rates of violence in the United States. While one problem with studies like that of Lott and Mustard is that they get the wrong answer on the linkage between firearms and crime, a larger problem is that they ask the wrong question. The distinctive problem in the United States is not rates of crime, but rather high rates of lethal violence.

The Fruits of a New Agenda

State legislation concerning handgun permits became an important issue for gun-owning groups only in the 1980s, and the reason for that prominence was a change in political tactics by the NRA. Prior to the 1980s, the lobbying efforts of the NRA and other gun owner interest groups were concentrated on the legislative branch of the federal government. By 1986 the gun lobby had succeeded in cutting back some coverage of the federal Gun Control Act of 1968, and the only important remaining legislative priority at the national level was opposition to a proposed handgun waiting period and police notification scheme that eventually passed Congress in 1993 as the Brady Bill.

This was the background for a decision by the NRA to invest more effort into increasing its influence at other levels of government. And for reasons of regional culture and the relative power of rural interests, the NRA had much more influence at the state level, particularly in the South, the West, and in rural regions. But the significant power of the gun lobby group in southern, western, and rural states was in one sense an embarrassment of riches. The very locations where the NRA possessed the most legislative influence had few restrictions on guns. It was necessary to provide a legislative agenda to match the political power that the gun groups had discovered.

“Permit-to-carry” legislation provided the gun interests with an attractive state-level issue. Even states with few restrictions on ownership and transfer frequently required special permits before citizens could carry concealed firearms on their person or in a motor vehicle. State law usually prohibited carrying concealed weapons without a license, and either required the citizen to show good cause to obtain a license, or delegated discretion to issue or deny such special licenses to the chief law enforcement officer of the applicant’s home community. The evident theory of requiring special permits is that concealed

handguns in public places are a public danger unless restricted in quantity and given only to highly trustworthy citizens.

A competing theory is that all persons legally qualified to own guns should be allowed to carry them if they so desire. Adherence to this theory would entail either the abolition of the need for special licenses, or the relaxation of the standards for these licenses. The strategy chosen by the gun owner groups was to keep the need for a permit but to change state laws so that such permits would have to be issued to any citizen not disqualified by a serious criminal record, youth, mental illness, or other specially designated factor.

In current vernacular these laws are called “shall issue” statutes. The focus on passing this style of permit-to-carry law has been more than modestly successful, especially in the South and the West. In the decade between 1977 and 1986, Lott and Mustard tell us that only one state passed a “shall issue” law: Maine in 1985. Between 1987 and 1991, however, eight jurisdictions passed statewide “shall issue” statutes, five in the South (Florida, Virginia, Georgia, West Virginia, Mississippi) and three in the West (Idaho, Oregon, and Montana). One additional state, Pennsylvania, enacted a “shall issue” law but excluded the state’s largest city from the change.

This cursory survey of the legislative history of permit-to-carry reforms produces three conclusions that are important to assessing the Lott and Mustard study and others like it. First, the boomlet in “shall issue” legislation was a byproduct of the shift in gun lobby emphasis from the federal to the state level of government. During the generation prior to the mid-1980s, when the NRA concentrated its attention on Congress, the legal regulation of carrying concealed firearms was a nonissue. What made permits to carry a particularly attractive target of opportunity was that restrictive legislation was on the books even in many states where the gun lobby was strong.

Second, the passage of “shall issue” laws seems to have been championed as a symbolic rather than as an instrumental step. The rhetoric for reform was as an expansion of citizen rights, what gun owner groups call “firearms freedoms.” There were no numerical targets for expanding licenses to carry that were emphasized by most gun-owning groups, and the focus of effort was not on follow-through

after the new legislation achieved passage, but rather on achieving the legislative change. If the passage of such legislation was seen as an end in itself, rather than as a means to other objectives, it might not be prudent to expect extensive changes in citizen behavior as a result of the legislation.

And third, the collection of states that passed “shall issue” laws was in no sense a cross section of the American federal system. The regional pattern that distinguishes “shall issue” states from other jurisdictions are the differences one would predict. All of the state-wide “shall issue” legislation of the recent past, except that of Maine, occurred in southern and western states. The industrial midwest is missing from the roster of “shall issue” reform states, as is every state in the urban northeast except one. That one, Pennsylvania, is really the exception that proves the rule. What is urban and northeastern about Pennsylvania, the city of Philadelphia, was excluded from the coverage of the new law, a compromise that speaks volumes about the distinctive political constituency of “shall issue” laws.

The other predictable bias in the self-selected group of “shall issue” states is that the states that recently adopted “shall issue” laws already had few restrictions on firearms. This is hardly a surprise, but the fact that the states that passed these new laws were already unsympathetic to firearms control may limit the amount of change in behavior that we can expect as a consequence of the new law. The sort of state that passed a “shall issue” law in the 1980s is apt to be the same kind of place where ordinary citizens carrying concealed firearms might not be regarded as a major problem even before the law changed.

The problem with the distinct regional and legislative patterns that characterize the “shall issue” states is that they frustrate our capacity to compare trends in “shall issue” states with trends in other states. Because the states that changed legislation are different in location and constitution from the states that did not, comparisons across legislative categories will always risk confusing demographic and regional influences with the behavioral impact of different legal regimes.

The Logic and Findings of Lott and Mustard

The basic data and methodology of the Lott and Mustard study are the same as those of the multivariate econometric studies that have frequently been used to analyze aggregate crime statistics in search of policies that reduce crime. The trend in homicide and various other crime categories, as measured at the county level, is compared before and after the “shall issue” law went into effect.

The study, for example, examines trends in Idaho before and after its 1990 passage of a “shall issue” law to see whether the new law had an effect in Idaho. In order to do this, crime trends in Idaho, and other “shall issue” states, are compared with trends in the rest of the nation. If Idaho has 8 percent fewer homicides after the law came into effect than it would have had if it had followed national trends, the logic of the analysis would be to nominate that 8 percent difference as attributable to the change in law.

But, of course, Idaho is not the same as New York, and there seem to be systematic differences between those states that changed their standards for concealed weapons and those that did not. These differences between states may influence trends over time, as when crack cocaine impacted on very large eastern cities in the mid-1980s with a substantial impact on homicide levels. Do we want to compare Idaho, West Virginia, and Mississippi trends to Washington, D.C. and New York City trends over time?

Lott and Mustard are, of course, aware of this problem. Their solution, a standard econometric technique, is to build a statistical model that will control for all the differences between Idaho and New York City that influence homicide and crime rates, other than the “shall issue” laws. If one can “specify” the major influences on homicide, rape, burglary, and auto theft in our model, then we can eliminate the influence of these factors on the different trends. Lott and Mustard build models that estimate the effect of demographic data, economic data, and criminal punishment on various offenses. These models are the ultimate in statistical home cooking in that they are created for this data set by these authors and only tested on the data that will be used in the evaluation of the right-to-carry impacts.

A criminologist would have a number of problems with both the model used in this study and the method of its validation. For example,

the model assumes that the same short list of factors had the same degree of influence in all the states throughout the period. In the 1980s and early 1990s crack cocaine markets produced a wild expansion in homicide in New York City and Washington, D.C. (but not presumably in any Idaho counties), yet there is no account paid to this factor in the model.

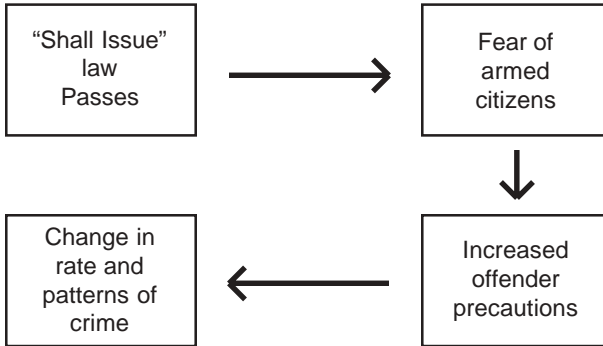
It is important to note that Lott and Mustard are by no means isolated in their rather casual approach to modeling the causes of crime in this fashion. The techniques and assumptions used in this study have parallels in several other economic analyses of crime and punishment and in econometric analyses of other phenomena as well. Perhaps these methods are less problematic when used to explain forms of social and economic behavior besides crime. Perhaps not. But many of the methodological objections to this study can be made as well to a cluster of econometric examinations of crime and punishment.

Two idiosyncratic aspects of the Lott and Mustard analysis deserve special mention, however, and have an important influence on the power of these statistics as social science data about right-to-carry laws. In the first place, there is very little in the way of explicit theory advanced to explain where and when right-to-carry laws should operate as deterrents to the types of crime that can be frustrated by citizens carrying concealed handguns. The sort of fancy economic specification of behavioral impact that one usually finds in econometric contributions to legal studies is not present in this study. Indeed there is some ambiguity about the nature of the deterrent mechanism that is supposed to alter offenders' behavior. Figure 1 contrasts two different models of right-to-carry impact that would be consistent with effects found in the literature on deterrence.

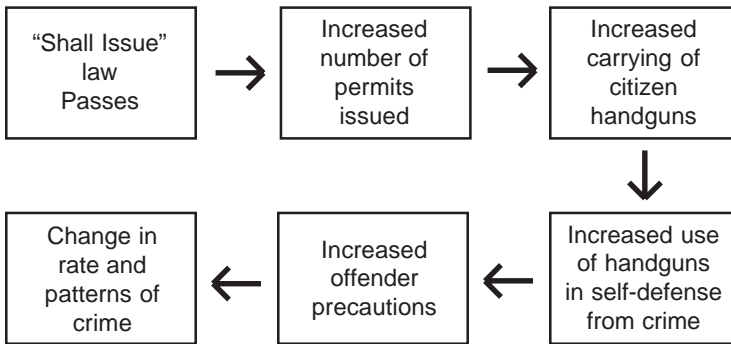
The figure contrasts what we call the "Announcement" and "Crime Hazard" models of right-to-carry impact on crime. The announcement model expects that passing the new law, of and by itself, increases the anxiety of potential criminals and thus alters their behavior. This sort of announcement effect was found by H. Lawrence Ross in his study of the impact of law enforcement crackdowns on drunk driving in Britain. Such effects are more likely when the change

Figure 1: Two Models of Right-to-Carry Deterrence

A. Announcement Effects Model



B. Increased Crime Hazard Model



advertised is under the immediate and direct control of state authorities, and such effects tend to diminish over time.

It is more likely, however, that Lott and Mustard would adopt the crime hazard model, as it is more consistent with the rational choice and price metaphor approaches that economists tend to use when

looking at crime. In this model, changes in law produce changes in the behavior of potential crime victims, which in turn alter the hazards associated with particular forms of crime and therefore lead to changes in patterns and rates of crime.

But this leads to the second important failing in Lott and Mustard that is not a recurrent feature in econometric studies. If it is a crime hazard model that Lott and Mustard are testing, they have no data to measure the critical intermediate steps between passing the legislation and reductions in crime rates. How can we know, for example, if the crime hazard model is correct when only the first and last steps (on which the two models are the same) are examined? After confirming that a “shall issue” statute was passed, Lott and Mustard make no attempt to measure carrying of handguns by citizens, use by citizens in self-defense from crime, or offender behavior in relation to street crime. There is merely the legislation and the crime data, linked only by the argument that no plausible rival hypothesis exists other than “shall issue” laws to explain the lower than predicted levels of selected crimes.

Inadequately detailed data is also a problem when comparing different types of crime. The political factors discussed earlier in this essay tell us that the legal change Lott and Mustard examine should only have impact on some types of crime. Handguns were freely available for home and business use in all the “shall issue” jurisdictions prior to the new laws. The new carrying privilege would thus not affect home or business self-defense but should have most of its preventive impact on street crime and offenses occurring in other public places. But the study contains no qualitative analysis of different patterns within crime categories to corroborate the right-to-carry prevention hypothesis. The connection is only between legislative activity in the first box of the two models in Figure 1 and aggregate crime categories in the last box.

So the evidence of causal linkage is quite fragile. If the model of crime is not good enough to control for the obvious differences between “shall issue” and other states, or if lower-than-expected violence levels are not consistently associated with the “shall issue” changes, or if the kinds of behavioral changes assumed by the deterrence model turn out not to take place, or if the kind of crime that is

lower than expected is not of the type that can be plausibly tied to the carrying of concealed weapons—the causal attribution of the crime trends to the legal change is undone. Any single problem of significance in the list outlined above should invalidate the causal argument. What then should be the effect of finding significant problems under all four headings? We return to this issue at the end of the next section.

Deconstructing Deterrence

In an age of the Internet and the computer, a good deal of reanalysis and reaction to a study can be launched prior to its actual scholarly publication. Because Lott and Mustard have cooperated by providing the data they analyzed to others, reanalysis of the data set emerged as a minor cottage industry in the autumn of 1996. We have examined three papers reporting on such statistical adventures, probably no more than a sample of the reanalysis that will take place in the near future. But this first work of reanalysis shows the vulnerability of the findings in many respects.

Dan Black and Daniel Nagin have produced one brief but wide-ranging reworking of Lott and Mustard's data under the auspices of the National Consortium on Violence Research. Their paper shows that the great bulk of the estimated prevention of homicide in Lott and Mustard is an artifact of excluding about 20,000 counties from the analysis of homicide because no offense-to-arrest ratio can be determined for those counties. Include those counties and the significant negative effect of right-to-carry on murder disappears. Black and Nagin also conclude that negative trends for robbery and aggravated assault that are estimated with the Lott and Mustard subsample of counties "vanish with the inclusion of the missing data." Murder, robbery, and aggravated assault had accounted for more than \$6.1 billion of the savings the authors had claimed, about 95 percent of the net total. Easy come, easy go.

Black and Nagin also use a different procedure to examine crime trends before and after the "shall issue" states passed those laws. Whereas Lott and Mustard found great consistency in the trends, Black and Nagin find that only Florida had marked changes after the laws were passed. The trends in the rest of the sample for most offenses

look the same for two and three years after the new laws are passed as for two or three years before.

And when looking at specific crimes at the state level, Black and Nagin report no consistent statewide pattern of decline among the right-to-carry states. Instead, “Why do murders decline in Florida but increase in Virginia? Why do assaults fall in Maine but increase in Montana? In our view, the simultaneous existence of these significant positive and significant negative effects within the same crime category leads us to question the underlying econometric model used.”

Black and Nagin are not alone in questioning the model used to explain crime and homicide. Both Albert Alschuler and Jens Ludwig note a number of problems in their separate papers. Why, for example, should the concentration of older black women in a population predict higher crime rates in the Lott and Mustard model, but not the increased concentration of young men, age 20 to 29, who are vastly more likely to commit such offenses?

Or consider the case of domestic killings. Of all the major subclasses of homicide, domestic killings are the least likely to involve streets and other public settings where a permit-to-carry law would make a difference in arming a victim. So this class of killings should not change if a new right-to-carry law is the reason homicide rates decline. Yet Alschuler points out that domestic homicide does decline more pronouncedly than acquaintance killing in the “shall issue” states. How can this be a result of a change in permit-to-carry policy?

Ludwig points out that the deterrent effect of “shall carry” laws should be age specific because only adults are eligible to get permits, even in “shall issue” states. This “adults only” phenomenon should have one of two different effects, depending on how seriously one takes a hazard model of criminal homicide causation. Either the killing of young victims should not be affected at all by the new laws, or it should actually increase as prospective killers seek out targets less threatening than the newly armed adults. In either case, the homicide rate for those older than 21 should decrease much more markedly than for the young victims who function as something of a control group because the permit-to-carry law did not change for them.

But this is not what happened in the seven “shall issue” states with a legal threshold of 21 in their laws. Further, in Pennsylvania, where a natural experiment was put in place by the state legislature, the proportion of young victims did not increase (as it should have) in those parts of the state under the new regime when compared over time with trends in Philadelphia (with no legal change). In fact, the young victim control group does slightly better than the adults for whom the policy changed. How could this possibly be the work of “shall issue” laws?

This kind of qualitative analysis produces a rather straightforward debunking of Lott and Mustard’s central claim. But the arbitrariness and superficiality of their study do not set it apart from many other regression studies of crime and punishment. Just as Messrs. Lott and Mustard can, with one model of the determinants of homicide, produce statistical residuals suggesting that “shall issue” laws reduce homicide, we expect that a determined econometrician can produce a treatment of the same historical periods with different models and opposite effects. Econometric modeling is a double-edged sword in its capacity to facilitate statistical findings to warm the hearts of true believers of any stripe. But the same overwhelming problems will haunt studies that point the multivariate arrow in a different direction. It is not just that these authors did research in the wrong way, they did the wrong sort of research.

A Note on Justifiable Homicide

None of the first round of critiques of Lott and Mustard dealt with the absence of any measurement of citizen self-defense, so we collected some of our own data on the topic. Recall that the subject of the Lott and Mustard study is the effect of citizens carrying handguns on the rate of homicide and other crimes. Yet there are no measures, direct or indirect, of civilian handgun carrying in any state, at any time covered by the study. The authors just assume a positive impact of “shall carry” laws on handgun carrying behavior.

One imperfect measure of armed citizens’ defense against crime in the street can be found in the Supplemental Homicide Reports prepared by police departments and collected by the Federal Bureau of

Investigation. Killings regarded as justified by the police are separately counted for police and for civilians. The number of justified killings by civilians over time is available as a measure of trends in armed self-defense. Using a body count of justifiable civilian killings as a measure of the use of concealed firearms that prevented crime is both an undercount and overcount in important respects. But the trend in killings over time might still be a useful indicator of the trend in self-defense episodes over time.

As this was written, we had access to a CD-ROM that provided homicide data from the Supplementary Homicide Reports for the years 1976 through 1991. We examined whether the six states that passed “shall issue” laws prior to 1990 had experienced changes in justifiable killings inflicted by civilians when the two calendar years prior to the year when the law was passed were compared to the two calendar years after the law was enacted.

The pattern that emerges from this sounding is anything but uniform. Acceptable data on homicide of any kind are not available for the state of Florida. Virginia and Georgia report more justifiable killings in the two years after passage than in the two years before. Maine and West Virginia have low levels of justifiable killing throughout the time series and fewer justifiable killings in the two years after the year of passage than in the two years before. Maine, in fact, had no justifiable homicides in the six years following the implementation of the law. In Pennsylvania, justifiable killings outside of Philadelphia went down, while justifiable killings in the city increased—the reverse of the trend one would predict on the basis of the legislation.

Bottom Lines

Some day there will be a good evaluation of “shall issue” legislation on the behavior and the welfare of citizens. It will focus on the experience of one or two jurisdictions, not ten at a time. It will collect detailed data on the people who take out permits and how such permits influence their behavior in situations when they feel threatened while they are carrying guns. The study will probably find some modest costs associated with laws that appear to result in fewer than 2 percent of citizens taking out these permits, and might find some

modest benefits as well. Large reductions in violence are quite unlikely because they would be out of proportion to the small scale of the change in carrying firearms that the legislation produced.

The Lott and Mustard study will not help to build a bridge to this kind of detailed knowledge of the effect of “shall carry” laws. The regression study they report is an all-or-nothing proposition as far as knowledge of legal impact is concerned. If the model is wrong, if their bottom line estimates of impact cannot withstand scrutiny, there is no intermediate knowledge of the laws’ effects on behavior that can help us sort out the manifold effects of such legislation. As soon as we find flaws in the major conclusions, the regression analyses tell us nothing. What we know from this study about the effects of “shall carry” laws is, therefore, nothing at all. Nevertheless, let the buyer beware. This study has already entered the policy debate and will no doubt be fuel for “shall issue” proponents in all the states that have not yet enacted such legislation.

It is by no means impossible that some crime is prevented by increased citizen gun carrying in some U.S. states. How much crime and under what circumstances are empirical questions. But one other important fact makes the policy impact of such laws less important. The benefits and costs of permits to carry are marginal to the tremendous costs we already pay for the high ownership and use of handguns in the United States. What sets the United States apart from other developed countries is not our high crime rates. What sets the United States apart is our distinctively high rates of lethal violence. Our cities have no more property crime than major cities abroad. Even the rates of assault reported in other industrial nations are quite close to the assault rate in the United States. But the rate of violent death from assault in the United States is from 4 to 18 times as high as in other G7 nations; and this is largely a consequence of the widespread use of handguns in assaults and robberies. Firearms are only involved in about 4 percent of all American crimes, but are used in 70 percent of all fatal assaults.

Laws that encourage the licensing of citizens to carry concealed handguns are similar in one respect to waiting periods for handgun purchase and federal legislation intended to produce “gun free”

elementary and secondary schools. They are attempts to fine-tune citizen behavior in an atmosphere dominated by the free availability and widespread use of guns in violence. For those who hope for the substantial reduction in lethal violence in the United States, this effort at fine-tuning seems very much like rearranging the deck chairs on the Titanic. Any policy that accepts the present handgun inventory in the United States as immutable will be responsible for continuing high rates of lethal violence in the foreseeable American future.

By permission of Johnny Hart and Creators Syndicate, Inc.

THE COMMUNITY BOOKSHELF

Liberal Neutrality and Its Role in American Political Life

Daniel A. Bell

Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Massachusetts: Harvard University Press, 1996). 417 pp.

Michael J. Sandel's long-awaited book is a rather surprising contribution to the liberal-communitarian debate. More than any other source, Sandel's first book—*Liberalism and the Limits of Justice* (1982)—helped to launch the modern communitarian critique of liberalism. Liberal theory, Sandel argued, is fatally disabled by its individualistic premises. Liberals ask us to imagine a self devoid of all communal ties, but this “unencumbered self,” as Sandel put it, cannot come to terms with the unchosen communal ties that lend meaning to our lives. Liberalism would seem to hold out a liberating vision, but in fact we are led to imagine persons entirely lacking in moral depth and deeper engagements. The political consequence of this vision is that we are unable to articulate the civic virtues and commitments necessary for effective schemes of distributive justice and for a healthy and robust democratic life. Instead of a politics of good, liberals offer us a “procedural republic” that tries to be neutral on moral and religious questions. But Sandel did leave out the hope that things could be improved with philosophical and political alternatives more attentive to the importance of community in our moral and political lives.

Sandel's work has since generated an immense amount of critical literature. Whereas Sandel directed most of his critical fire at John Rawls's influential formulation of liberal theory in *A Theory of Justice*, critics pointed out that 19th-century liberals such as John Stuart Mill did in fact value communal ties at the level of the individual and public-spiritedness at the level of the political community.

More seriously, several critics argued that Sandel grossly misinterpreted Rawls's arguments. For one thing, Sandel all but neglected Part III of *A Theory of Justice*, where a richer and more "communitarian" conception of the self emerges. As Will Kymlicka has argued, Rawls never did say that he favors a self totally unencumbered by history or valued communal attachments. Rather, Rawls's position is that we should not be permanently "encumbered" by any one role or attachment. We should be able to examine and reject our present ends if necessary, but that does not mean we can do it all at once or that we can imagine a self totally unencumbered by any ends. More specifically with reference to liberal political ideals, other theorists such as Stephen Macedo and William Galston argue in some depth that a more defensible version of liberal political theory does not presuppose a picture of a neutral state.

One might have expected Sandel to respond to his liberal critics. If liberals do not say what Sandel says they say, and if liberal theory can in fact accommodate Sandel's "communitarian" concerns, the case for replacing liberalism with a new "public philosophy" does not, to say the least, seem nearly as strong. Strangely enough, however, Sandel completely ignores his critics in *Democracy's Discontent*. The same old picture (caricature?) of liberalism is trotted out in chapter one, as though no alternatives (or alternative interpretations of Rawls's work) were available. There are no references to Amy Gutmann, Kymlicka, Macedo, and other liberal theorists who have explicitly responded to Sandel's "communitarian challenge." Sandel's new book, in short, is likely to disappoint many of Sandel's colleagues in the field of political theory. Perhaps Sandel meant to address a wider audience, but it would have been nice to have had some discussion—at least in the footnotes—of liberal theory as it has developed in the 14 years since Sandel's first book.

Critics of Sandel's work also objected to the lack of a positive communitarian vision, and this was seen as a problem with communitarianism more generally. One is offered a glimpse of a communitarian alternative in the last few pages of *Liberalism and the Limits of Justice*, but that book is essentially an extended critique of Rawls. Liberal critics—and those of us inspired by Sandel's closing pages—wanted more. What might a communitarian political morality look like, and what might this mean in terms of concrete political proposals appropriate for modern democratic polities? Sandel's new book, unfortunately, disappoints on this score as well.

Sandel's idea of a new "public philosophy" is in fact a rather old ideal—"republican freedom" as formulated and practiced by Thomas Jefferson and other early Americans. Our salvation lies in resuscitating the civic virtues and qualities of character conducive to democratic citizenship. Not, of course, exactly the same kinds of values endorsed by 18th-century republicans. Sandel recognizes that Jefferson's agrarian ideal is no longer feasible in the modern world, and also that traditional republicans sometimes endorsed unpalatable racist and sexist beliefs. Nor does Sandel endorse the growing trend towards the isolation of wealthy Americans in "walled communities." But these qualifications undermine part of Sandel's case. Whereas Sandel argues that "community" comes before justice (p. 54), it does seem as though an unarticulated (liberal?) theory of justice—one that does not permit communities to discriminate on the basis of class, sex, or race—informs his choice of valued forms of community life.

Competing Commitments

From a communitarian perspective, however, the deeper problem is that Sandel values competing forms of communal life. In a Tocquevillian vein, Sandel notes that civic capacities are awakened in intermediary communities between the individual and the nation such as "neighborhoods and town halls, churches and synagogues, trade unions and social movements" (p. 314). These communities need to be re-invigorated in the modern world, so that individuals spend more time being trained in "schools of civic virtue." But Sandel—unlike Tocqueville—also includes the family as an intermediary community. In a chapter on "Privacy Rights and Family Law," Sandel persuasively shows that liberal divorce laws in effect discriminate

against those who view “the practice of marriage as a community in the constitutive sense” (p. 115), meaning primarily women whose identity is tied to family rather than to career. New “pro-family” laws thus need to be put into place.

The problem is that commitments to “the family” and Tocquevillian “intermediary communities” often conflict in practice. Women whose identity is tied to family “in the constitutive sense” generally do not have sufficient time and energy to participate in local public affairs, trade unions, and social movements. Favoring family life, in other words, is likely to erode “public” commitments, and vice versa. Surely it is no coincidence that “republican” America in Jefferson’s day relied on active, public-spirited male citizens largely freed from family responsibilities. Conversely, societies composed of persons leading relatively rich and fulfilling family lives (such as contemporary Singapore) tend to be ruled by paternalistic despots who can rely on a compliant, politically apathetic populace. Pro-family policies in an American context may well undermine the conditions of democratic citizenship.

Things become even more problematic in the section on “the political economy of citizenship.” Sandel speaks favorably of “proud craftsmen” (p. 170) in the Jacksonian era and of Louis Brandeis’s ideal of “industrial democracy, in which workers participated in management and shared responsibilities for running the business” (p. 213). Identification with the workplace and industrial democracy are said to improve workers’ civic capacities, but that may not be the case. In the same way that extensive involvement in family life can conflict with commitments to public life, few persons will have sufficient time and energy for extensive participation in both the workplace and public affairs. The “republican” society of ancient Athens relied on active, public-spirited males largely freed from the need to work. (Slaves did most of the drudge labor.)

It is also worth noting that devotion to the workplace can undermine family life. As Professor Tatsuo Inoue of Tokyo University argues, Japanese-style communitarianism—strong communal identity based on the workplace, with extensive worker participation in management—sometimes leads to “death from overwork” and frequently deprives workers of “the right to sit down at the dinner table

with their families.” In short, Sandel’s “communitarianism” will remain a vague and unfulfilled “public philosophy” so long as he does not confront the potential conflict between different spheres of communal life.

Those hoping for concrete political proposals will be even more disappointed. Sandel briefly sketches out some examples of desirable, pro-community political practices in five pages of the concluding chapter, but much more is needed to revive “the civic strand of freedom” (p. 337). Moreover, Sandel limits his gaze to the American experience, when he may well have looked in Western Europe or East Asia for examples of political practices designed to inspire civic engagement and a sense of community. U.S. companies successfully adapted some “Japanese-style” management practices in the 1980s, and U.S. welfare theorists are currently looking to Chile for guidance on reforming the Social Security system. Similarly, U.S. communitarian theorists may learn something positive from the study of non-American societies. Looking abroad as well as backwards may also make one more attentive to the dangers of “non-neutral” politics. The Singaporean government plays an active role in shaping the moral and civic character of its citizens, but what this produces is widespread alienation from the political process rather than civic engagement.

“Neutrality” and Its Discontents

So much for what the book does not do. What Sandel does do—and here he succeeds admirably—is show that a philosophically indefensible brand of liberalism has gradually displaced traditional republican values in the United States over the past half-century. Whereas American political debate at one time centered on the “republican” question of how to promote the habits and dispositions that equip citizens for self-government, American politics has come to insist that government should be neutral between conceptions of the good life so that individuals can pursue their own freely chosen ends. The philosophical problem, to repeat, is that this vision of an “unencumbered self” cannot account for a wide range of unchosen moral and political obligations that we commonly recognize, and the political problem is that a politics lacking substantive moral discourse cannot satisfy the yearning for a public life of larger meaning, and thus opens the way for intolerance and other misguided moralisms.

Part I of the book is a persuasive account of how liberal ideas about state neutrality have come to inform the theory of constitutional law and of family law in recent decades. Problems in the theory also show up in the practice, as legal judgments have failed to respect persons encumbered by “constitutive” commitments and life circumstances. Sandel, as noted above, attacks laws that devalue traditional mothers who may not aspire to “independence,” but other aspects of Sandel’s communitarianism do not fall readily within the “conservative” camp. Homosexuality, for example, is normally thought to be a “constitutive” feature of one’s identity, and Sandel argues that fuller respect for homosexuals in constitutional law “would require, if not admiration, at least some appreciation of the lives homosexuals live” (p. 107). What this may mean in terms of the right to same-sex marriage is not made explicit, but one suspects that Sandel would favor marriage for homosexuals who see themselves as pursuing the same goods (such as loyalty and self-sacrificing love) as heterosexual couples.

In Part II of the book Sandel shows that the public philosophy of state neutrality between conceptions of the good life has also come to “infect” political debates on economic policy in the United States, with negative consequences for self-government. Sandel attributes the demise of “the political economy of citizenship” to the emergence and eventual dominance of Keynesian fiscal policy in the late 1930s. Whereas Americans once argued over which economic arrangements are most conducive to civic-engagement and self-government, Keynesian economists shifted the terms of the debate to considerations of consumer welfare. Economic arrangements are now to be evaluated in terms of their contribution to economic growth and distributive justice, regardless of their impact on the conditions of self-government. This shift occurred, Sandel shows, at the same time that new ideas about social and economic entitlements seemed to demand of fellow citizens a strong sense of mutual responsibility and moral engagement. Thus by neglecting the conditions for civic-engagement, economic policymakers may have unintentionally undermined the psychological prerequisites for an effective welfare state, as well as neglected the ways that concentrations of economic power threaten democratic habits and institutions.

The book is well-researched, and much insight is gained from Sandel's historical account of the shift from "republicanism" to "liberalism." The shift, however, may not be as all-encompassing as Sandel suggests. Part II tends to focus on debates in the executive branch, but republican concerns about the "common good" are still very much part of political debates in Congress and state legislatures. In a new co-authored book entitled *Democracy and Disagreement*, Amy Gutmann and Dennis Thompson draw on examples from contemporary politics to show that democratic deliberations about the common good often inform legislative debates in the United States.

The same can be said for other American political institutions neglected by Sandel. For example, the National Park Service is explicitly entrusted with the task of imbuing Americans with democratic values and civic-minded commitment to the common national good. As a recent work published for the 75th anniversary of the National Park Service (NPS) puts it, "The resources protected by the national park system harbor lessons that the nation wishes and needs to teach itself and replenish in itself, again and again, visitor after visitor. Thus, just as it is the responsibility of the system to protect and nurture resources of significance to the nation, so must it also convey the meanings of those resources and their contributions to the nation and to the public in a continuing process of building the national community." It is interesting to note that the NPS's mission was originally justified largely on environmental grounds, but the shift to "republican" concerns began to dominate in the 1930s, about the same time Sandel begins to trace the decline of "republicanism" in American political life.

Perhaps the more important issue is to what extent "liberal neutrality" in political discourse is in fact the cause of our present malaise. A more comparative approach may lead one to think otherwise. As Michael Walzer points out, the governments of France, Norway, and the Netherlands "don't claim to be neutral with reference to the language, history, literature, calendar, or even the minor mores of the majority. To all these they accord public recognition and support, with no visible anxiety." The same is true of East Asian countries such as Japan and South Korea. Yet politics in all these

countries is similarly rife with discontent and worry over the erosion of families, neighborhoods, and nations.

Enough carping. Sandel has an important story to tell, and he tells it well. The book is beautifully written, and Sandel demonstrates the advantages of a historically informed approach to political theory. Sandel's first book inspired many Anglo-American political theorists to debate the question of whether or not liberal theory as an ideal can be made philosophically defensible. But it turns out that the politically relevant question may be to what extent a philosophically indefensible and politically problematic brand of liberalism has come to inform political discourse and affect political practice. Unless, that is, Sandel's next book leads us to think otherwise!

The Use and Abuse of History

Mark Hulliung

Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Massachusetts: Harvard University Press, 1996). 417 pp.

Are you a communitarian who is sick and tired of hearing that you see the past through rose-tinted glasses? Is it irksome for you to waste so much time denying claims that communitarians sigh nostalgically for a past that never existed? Then stay away from *Democracy's Discontent*, in which Michael Sandel unwittingly vindicates the charges levelled by communitarianism's critics.

In his first book, *Liberalism and the Limits of Justice*, Sandel set forth an elegant and noteworthy philosophical critique of Rawls and other advocates of the "procedural republic." Now, in his second offering, Sandel moves from philosophy to history. His ambitious objective is to play out the battle between communitarians and liberals against the expansive backdrop of two centuries, from the founding to the present

day. Readers familiar with his earlier work will not be surprised to learn that he blames liberalism for codifying and exacerbating the decline of community; and many communitarians will undoubtedly be predisposed to believe his new claim that American history, until shortly after World War II, was marked by a civic, democratic, and communitarian public philosophy. Historians, however, will respond to Sandel's book with considerable dismay, and find themselves pondering the distinction between historical analysis and historical mythology.

Democracy's Discontent is divided into two parts. The first and by far the more successful section is an extensive review of Supreme Court decisions, by means of which Sandel charts the rise of the "procedural republic" in the 20th century. This section reads as a worthy companion piece to Mary Ann Glendon's *Rights Talk*. The Court's search for neutrality; its shift of concern from federal/state relations to individual rights and personal liberties; its tendency to treat persons as individuals rather than as participants in social practices or bearers of social roles; and its preoccupation with privacy are among the themes that Sandel addresses in part one.

Republicanism versus Liberalism—or Not

The second, far longer, and highly problematical part of Sandel's book is a survey of American history, written as a paean to a public philosophy of active citizenship that was present at the time of the founding and, in Sandel's view, still vibrant until half a century ago. To make his case Sandel draws upon the works of historians such as Bernard Bailyn and Gordon Wood, who have displaced the thesis of Louis Hartz—that the American political tradition is monolithically liberal—with their contrasting view that at the founding the reigning public philosophy was "republican," meaning that Jefferson and company drew upon classical notions of civic virtue, duty to the community, and freedom as self-government.

What, then, is questionable in Sandel's reading of American history? Nearly everything, beginning with his implicit assumption that republicanism and liberalism have always been antithetical outlooks. Precisely the opposite is true, as anyone familiar with the likes of Tom Paine should know. An ardent republican, Paine was also a

vehement advocate of natural rights, religious freedom, and limited government. How is it possible for Sandel to fail to recognize that Paine and many other early Americans figure as readily in the liberal as in the republican pantheon?

The answer is that Sandel treats the procedural liberalism of recent times not as one variant but as liberalism per se, a device permitting him to filter out all evidence of earlier forms of liberal thought. Employing this ahistorical method of reasoning, Sandel overlooks, for instance, the paramount role the Declaration of Independence has played throughout our history. In one form or another Americans have always had their politics of “rights talk,” as when the Abolitionists and Lincoln invoked the Declaration—the Abolitionists to damn, Lincoln to perfect the Constitution. An entire book could and probably should be written on the way Americans have repeatedly turned to the Declaration of Independence and its discussion of rights for inspiration when calling for social and political reform. Sandel barely mentions the Declaration and has nothing to say about the rich American natural rights tradition.

One more illustration of the omnipresence of liberalism in American history should suffice. For all the attention Sandel pays to the content of decisions rendered by the Supreme Court over the last several decades, he never stops to note that the very practice of judicial review constitutes formidable evidence of how deeply liberalism is embedded in the American political tradition. To this very day French republicans frequently balk at the suggestion that judges should be allowed to override the judgment of the sovereign people.

Having deleted the liberal chapters of American history, Sandel is equally inattentive to the uglier side of the republican tradition. It is not enough, for instance, to say that republicanism “coexisted...with the exclusion of women from the public realm” (p. 6). The point, rather, is that republican thought, in America as elsewhere, regarded it as a matter of high moral principle that women should be locked within the family. It is no accident that Marie-Olympe de Gouges, author of a *Declaration of the Rights of Woman*, died on the guillotine at the hands of radical French republicans, or that French women were denied the vote until the Fourth Republic in 1945. Liberals too, of course, have proven themselves insensitive to the concerns of women;

but when dealing with liberals, feminists have at least enjoyed the advantage of charging their foes with hypocrisy.

The disturbing record on women gives us reason to be grateful that republicanism has usually appeared in American history as a liberal/republican hybrid. Another reason to applaud the rare presence of a pure republican thinker is to consider which person answers to such a description. George Fitzhugh comes to mind. Author of *Sociology for the South* (1854) and *Cannibals All!* (1857), Fitzhugh defended Southern slavery and advocated its expansion to the North. He was as perfect an Aristotelian as one can imagine, a trenchant critic of the doctrine of rights, a man dedicated to public service and quite determined that his slaves should provide him with the leisure time he required to devote his life to the pursuit of the public good.

Throughout his book Sandel expresses a longing for rootedness, tradition, and a self weighted down by unchosen social identities—in contradistinction to the unencumbered self voluntarily choosing its ends, as depicted in the writings of Rawls and others. It never occurs to Sandel how poorly his republican heroes fit with his communitarian yearnings. Paine, Jefferson, as well as many Jeffersonians and Jacksonians agreed that the earth belongs to the living, that each generation must decide everything for itself with little or no reference to their predecessors or concern for those yet to be born. Only the Whigs dared speak with Burke's voice to an American audience, and they paid dearly for their indiscretion at the ballot box.

Words Have Histories Too

What makes it possible for Sandel to conjure up a rich tradition of civic republicanism, lasting until recent decades, is his ahistorical habit of assuming that words have the same meaning in all historical contexts. The painful historical truth is that “self-government” has rarely meant to Americans that they should place public affairs above private affairs, civic engagement above money-making. One can find Sandel's civic understanding of “self-government” during the Revolution, in the speeches of the Whigs, or in the jingoistic rhetoric of Teddy Roosevelt; but throughout most of our history “self-government” has signified little beyond distrust of elected officials and a

determination that they should answer to the immediate and untutored will of “the people”—or be thrown out of office.

The one set of beliefs that perhaps has been transmitted across the centuries are the interrelated convictions—inherited from the English republicans—that power corrupts, government is at best a necessary evil, and the governed are better than the governors. Sandel may be dedicated to a “formative project” of democratic character building; but it is quite false to suggest that such notions were typical of the Jacksonians or, more generally, of the American republican tradition.

“Independence” is another word whose meaning Sandel extracts from the founding era and then arbitrarily applies to subsequent periods. In the beginning, it is true, Americans sought a parcel of land so that they could live in accordance with the republican dictum that no man can be a citizen if he must sell his labor to another. Before long, however, “independence” simply meant going one’s own way, as when many Jacksonians eagerly embraced *laissez-faire* for small producers. Not without reason did Richard Hofstadter conclude that America “has been a democracy in cupidity rather than a democracy of fraternity.”

Most of all, as Judith Shklar demonstrated, the white Jacksonian democrats were obsessive about asserting their independence so as to distinguish themselves from black slaves. American notions of freedom and citizenship have been tainted by the pervasive evil of racial prejudice—a subject Sandel chooses to sidestep. The real significance of citizenship, Shklar argued with remarkable force, has not been civic participation but social inclusion. Historically, to be a citizen is to be somebody; to not be a citizen is to be less than a person, a “mere” woman or a black man.

Communitarians do indeed need to come to terms with American history. The question Sandel’s book raises is whether they should settle for communitarian mythology in their quest for a usable past.

The Grounds of Community

Glenn Tinder

Amitai Etzioni, *The New Golden Rule: Community and Morality in a Democratic Society* (New York: Basic Books, 1996). 305 pp.

Readers who construe the main argument in this book as a theory of community may be troubled by an apparent ambivalence in the mind of the author. On one hand, as presumably befits a communitarian, he is manifestly far more interested in community than in any other value. And he works out quite a comprehensive and balanced theory of community, defining community in terms of three criteria: a web of affective relationships, a set of core values at the center of the web, and established practices of moral dialogue that make it possible for the core values to be rationally examined. On the other hand, formally the book argues in favor not just of community but of a balance of community and autonomy. The “new golden rule” is that you should “respect and uphold society’s moral order as you would have society respect and uphold your autonomy” (p. xviii). The word “equilibrium” is frequently employed in connection with this theme. The result of this ambivalence is that a fully coherent concept of community is never reached.

This is not a very serious weakness, however, for the author’s aim, I think it is fair to say, is not so much to work out a theory of community as to discuss the problems of pursuing community in the circumstances reigning today in America and in the world. Construed in this way, *The New Golden Rule* is a work of eminent sanity. When the author speaks of “equilibrium” what he is usually thinking of, I believe, is not a value in competition with community but rather the need for circumspection in the pursuit of community. He realizes that social conditions that are often favorable to community, such as consensus and lawful order, can become antithetical to community if enhanced without limit.

Among academicians, common sense is not quite as common as one might think it would be. But readers of Etzioni (an academician, of course) can luxuriate in an abundance of common sense. Various

appealing misconceptions—for example, that proceduralism provides a method for avoiding value-choices, that multiculturalism is a constructive social ideal, or that there can be substantial governmental services without substantial taxes—are concisely criticized and laid to rest. And not only that. Practically every major claim is supported by apposite empirical data. The author's sanity is certainly due in part to his command of a vast store of information about current social conditions.

His sanity is due also, perhaps, to his firmly moralistic orientation. By this I mean simply that he is concerned throughout the book with what is good and bad, and he understands perfectly that this is not merely a matter of opinion. Even if everyone in the country, without exception, were in agreement on a particular moral issue, they might be wrong. Relativism has engulfed a surprisingly large area of contemporary social thought, affecting even people like Alasdair MacIntyre, who do not seem quite to belong in the relativist camp. Etzioni does not succumb to this tide. To begin with, he holds that each of us possesses a sense of value that is not wholly determined by established norms. "*Certain concepts present themselves to us as morally compelling in and of themselves,*" he writes (p. 241, author's emphasis). Such intuitions of course are not infallible, and Etzioni responds to this fact with the idea of "values talk," or moral dialogue. Our moral intuitions can be indefinitely refined and deepened through common discussion, and such discussion might be conducted on a national, or even international, scale. This dialogic concern, probably deriving in part from Martin Buber, gives the book an attractive warmth. Also it lends strength to the author's concept of community. Relativism flourishes today in part because, in an age of great moral confusion, people seeking community are drawn into unqualified affirmations of tradition and established order. But this often falsifies community, since tradition and established norms are often in error, and relationships founded on false values cannot be authentically communal.

There is almost nothing in *The New Golden Rule* that I would want taken away from it. It is heartening in times as confused as ours to encounter a book so filled with practical intelligence and moral insight. Yet my enthusiasm falters slightly. I wish that the book were

somewhat *deeper* than it is—more philosophical, more spiritual. Let me explain.

Grounding Morality

It is doubtful that the author ever quite attains firm moral ground. One sign of this is that no clear concept of justice ever appears, and one wonders how community can be successfully sought if the basic rule structuring communal relations is left in doubt. The question becomes particularly troublesome in connection with the concept of equality, which *in some form* is presumably integral to the concept of justice. Of course, equality is usually conceived of in terms not of wealth, power, or status but of something like respect or consideration; and correspondingly, it is usually based on “dignity” rather than on natural gifts. But no grounds for dignity are indicated in *The New Golden Rule*. To use Kantian language, it is unclear how Etzioni would defend the idea that every person should be treated as an end and not merely a means.

His weakness in this regard is suggested when he dismisses the issue of equality with the casual statement that “it is mainly racists who believe that there are superior and inferior people.” Plato a racist? Thomas Aquinas? John Stuart Mill? Friedrich Nietzsche? The history of social thought is replete with the names of writers who, without resorting to racism, believed in the existence of superior and inferior people. Indeed, for anyone using commonsense criteria, it is difficult to deny that in numerous important ways people are unequal. The question is how, in spite of their natural and acquired inequalities, they can be equal in dignity. Etzioni seems scarcely aware of the question.

A concept of justice of course presupposes metaphysics; this was shown in the opening ages of political theory by Plato. Although Etzioni bravely faces several hard issues—Are there moral absolutes? How can we discover them?—there is a metaphysical issue that he fails to face. It is that of what is often today called “foundations.” This word, it might be said, refers to the metaphysical basis on which judgments of absolute, or objective, value can be made. Nature, reason, and God are familiar among the foundations appealed to by past thinkers. Today foundations are on every hand denied, as in

deconstruction and “postmodernism.” The latter, broadly defined, consists mainly of efforts to show how we can live well in the absence of foundations. But Etzioni cannot afford to compromise with, or as he does, ignore, the issue posed by postmodernism. This is above all because of the key role that is played in his outlook by “values talk.” Without foundations one cannot argue in favor of one set of values over another, and if one cannot do that neither can one talk seriously about values.

An important aspect of the issue of foundations is that of religion and its role in moral and public life. This is an issue Etzioni *does* face. But he disposes of it far too casually. He points out that atheists can be morally good and believers morally bad. Moreover, he cites figures apparently showing that, in the world today, atheists on the whole are almost as good as believers, if we judge them by such standards as contributions to charity and participation in wholesome public causes. And he notes, quite properly, that religious faith has sanctioned some of the most deplorable acts and programs in history, such as the Inquisition. He does not note, however, that the great monsters of the 20th century, Communist and Fascist alike, have practically all been atheists.

More importantly, he does not take cognizance of the fact that the question of whether religion is essential to morality (in Dostoyevsky’s terms, whether we can be good without God) cannot be settled empirically. One has to ask whether an atheist can have *good grounds* for being moral, since the apparent goodness of atheists might be owing to accidents of historical circumstance and personal temperament. This is far from mere idle speculation. Today, atheists may be living from moral capital (in the form of habits and traditions) accumulated during nearly 20 centuries of Christian history; if this capital is depleted, as religion erodes, morality may gradually disappear. Indeed, there are signs that this is happening. Apparently a great many people today see little dignity in those who are senile, fatally ill, socially useless, or merely unborn. Why should specimens of damaged and incomplete humanity be treated as ends in themselves rather than as means to the well-being of whole and flourishing humanity? Why should people without *visible* dignity be accorded unconditional

respect unless they possess an *invisible* dignity of the sort ascribed to them by traditional religion?

Confronting Evil

Closely connected with religion is a subject which, had it been more resolutely investigated, might have given *The New Golden Rule* some of the depth it is missing. The subject I speak of is the radical evil in human beings. The existence of such evil is not a mere hypothesis; it is extravagantly manifest in the history of our century. However, it is easier for believers to face this evil than it is for atheists, for believers do not have to rest their hopes for the future entirely on human beings. It is unsurprising, then, that the most successful attempt in our time to acknowledge the scale of human evil, without sliding into a despairing abandonment of such decencies as constitutional government and popular rule, was made by a Christian theologian—Reinhold Niebuhr. Niebuhr spoke of “original sin” and with this term highlighted the truth that the evil in human beings is not an objectifiable entity, subject to rational analysis and human control. It infects all human efforts and activities, including those in which we objectify, analyze, and seek control. It is noteworthy that Etzioni makes no reference to Niebuhr and gives no indication of being familiar with his writings. Not that he is naive about human nature; he knows well enough that people can be difficult and unscrupulous. Nonetheless, he speaks of human possibilities with more equanimity than seems to me appropriate in a century as terrible as ours has been. It is doubtful that he has accurately taken measure of the kind of evil we have seen in Hitler and Stalin. Such equanimity has consequences, as shown in the following examples.

Etzioni betrays a tendency to idealize society. The moral voice of society, he seems to say, is as true and reliable as the moral voice of the individual. But that is questionable. Niebuhr wrote a book entitled *Moral Man and Immoral Society*. That he caught a sizable fragment of truth with this title is indicated by the fact that while there have presumably been saintly individuals there has never been a saintly society; and a recurrent phenomenon in the moral life of the human race is the struggle of a great individual (Bonhoeffer, Solzhenitsyn, Sakharov) against a degraded society. In spite of his moral serious-

ness, Etzioni does not do justice to moral imperatives like dissidence, rebellion, and solitude—imperatives that draw their authority from the human evil that congeals in social institutions. He seems not to have pondered the death of Socrates or the crucifixion of Jesus.

Another way in which Etzioni's tendency to minimize human evil becomes manifest is in a certain insensitivity to intractable dilemmas. Every society confronts issues which, given the evil infecting human nature, cannot be satisfactorily resolved. It is doubtful, for example, that any society can at one and the same time attain high levels of tolerance and of moral resolution; of governmentally-guaranteed material security and personal responsibility; of gender equality and family cohesion; of equality and liberty. Etzioni's usual method of dealing with such dilemmas is to posit two extreme solutions and then to seek a middle way. This method is no doubt sometimes sensible. But often it may merely render social evils less conspicuous, without alleviating them. A prime example of an irresolvable dilemma is that posed by what we might call, for the sake of brevity, democracy and personal distinction. The classical text here is Tocqueville's *Democracy in America*. Tocqueville gave compelling reasons for thinking that democracy is both morally imperative and, so to speak, morally expensive. It is imperative because (along with other reasons) it recognizes the dignity of individuals; it is expensive because in some degree it will rob individuals of independence of mind and spiritual elevation. Etzioni pays little heed to Tocqueville and seems to accept democracy with an untroubled mind.

Irresolvable issues display the capacity and inclination of humans to misuse every social arrangement. But they are only one manifestation of human evil. Another, ignored by Etzioni, is the extreme indifference to values, even the hatred of values, that is often termed nihilism. A reader may wish that Etzioni would study Dostoyevsky and meditate on figures like Stavrogin in *The Possessed*. He does not seem aware of the moral chasm opened up in late 20th-century America by arguments like those in favor of assisted suicide or unrestricted abortion rights, or by the prevalence of dignity-denying practices like pornography and sexual promiscuity (whether homosexual or heterosexual). Not only Germany in the '30s and '40s, but

America 50 years later, is cause for alarm of a kind I do not detect in Etzioni's book.

With these criticisms, however, I may be asking for too much: for a high order of common sense, along with spiritual and philosophical depth (another irresolvable dilemma, perhaps!). I would be very sorry if I cost Etzioni any readers. The state of American society would be far less ominous than it is if there were more books showing as clear an awareness of the "is," in the world around us, and as steady a concern for the "ought," as does *The New Golden Rule*.

LIBERTARIANS, AUTHORITARIANS, COMMUNITARIANS

From the Libertarian Side

Free Speech—At ACLU Events?

In the days before last November's election, the Tennessee ACLU held its annual Bill of Rights dinner at the Crowne Plaza Hotel in Nashville. Four petitioners stood outside the banquet room before the event, distributing pamphlets to those that entered the hall: one pamphlet supported Ralph Nader, and the other condemned President Clinton's record on civil liberties.

Hedy Weinberg, executive director of the Tennessee chapter, tried to get the petitioners to leave, asserting that the banquet was a private event. The petitioners responded that they were not intruding on the space rented by the Tennessee ACLU, but that they were in a public space. At this time Joe Sweat, a board member of the Tennessee ACLU, approached the petitioners, waving his arms in the air and roaring "I said for you to *leave!*" The petitioners promptly did, citing Mr. Sweat's size as the primary reason.

Weinberg later explained that the reason the petitioners were asked to leave was that they jeopardized the ACLU's nonpartisan status in the eyes of the banquet attendees. But, as Frank Ritter wrote in a column in *The Tennessean*, the matter could have been resolved easily had the Tennessee ACLU mentioned at the start of the banquet that they did not take responsibility for the petitioners nor for the material distributed. Ritter made another argument:

The ACLU has the right to escort out of its banquet anyone—paying customer or not—caught campaigning for Ralph Nader. But Crowne Plaza’s corridors outside the banquet room and Nashville’s public sidewalks don’t belong to the ACLU. Thus, the organization has no right to harass or give the boot to people exercising their right to free speech and peaceful assembly.

Jules Feiffer, the evening’s keynote speaker, facetiously concluded that this clear violation of the First Amendment should be taken up by none other than the ACLU: in other words, they should sue themselves.

Without Reason

The libertarian magazine *Reason* recently criticized the government-mandated installation of airbags in the driver and passenger seats of cars. “If it saves one life, it’s worth it” is the “mantra of the modern-day regulatory safety maven,” according to the author, Brian Doherty. And this mantra, Doherty asserts, is the enemy of reasonable “cost-benefit analysis.”

The March 1997 article acknowledges that 1,136 lives have been saved as a result of airbags from 1989 to 1995, and that this figure is expected to rise due to more people driving cars manufactured after 1991, the year federal law mandated that airbags be installed in cars. Since 1990, however, 51 people, including about 31 children, have died from the impact of airbag activation, usually in very minor accidents. And when one considers that only 189 of the lives saved have been passengers, most of them adults, the benefit of passenger-side airbags is even less sweeping, especially for children.

Many have thus called for increased consumer awareness about the importance of child safety precautions. John Graham, the director of Harvard University’s Center for Risk Analysis, has asserted that the best way to improve the ratio is to have state laws requiring children to be buckled in rear seats. But Doherty claims that the only way to lower the risk for children is to stop government-regulated installation of airbags altogether. Despite the significant statistics in favor of airbags, Doherty abandons his commitment to cost-benefit analysis: “Death from airbags are few. But even one death caused by government dictating what risks we can take is too many.”

As for the regulatory “mantra” he so despises, its origins predate modern-day regulators: “Whoever saves a single human life has saved an entire world” is a Jewish Talmudic expression.

From the Authoritarian Side

A Double-Edged Authoritarian Sword

College administrators in Pittsburgh are facing a difficult decision: Whether to allow what some would call an authoritarian religious cult to remain active on area campuses. According to an article in *The Chronicle of Higher Education*, the International Church of Christ—which is not affiliated with the more well-known Church of Christ but was founded by former members in 1979—is known across the country for strong proselytizing. This includes door-to-door and phone recruiting, inviting people to get-togethers without telling them that they are church events, waiting for students outside of classes, and repeatedly pressuring students to join. The church has already been banned from over 20 campuses nationwide.

The International Church of Christ is based on New Testament discipleship practiced by 1st century Christians. Members believe that they must deliver God’s word—usually in the form of religious conversion—to act out their role as true disciples. The church has been in the Pittsburgh area and present on the Carnegie Mellon and University of Pittsburgh campuses for the past two years, and complaints of heavy and inappropriate recruiting have been registered for the past year.

In response to such complaints, Pittsburgh’s United Campus Ministry acting director Dawn Lynn Check has started to hold meetings to warn people of the group. If the church is legitimate in their religious and recruiting intentions, Check asks, why must they deceive potential recruits, at first pretending to initiate friendships and not mentioning the church at all. Check and other members of the

Interfaith Council also question why the church requires members to give 10 percent of their income without knowing where the money is going. Since she has begun speaking out, Check claims she has received a few anonymous phone calls “telling me to keep my mouth shut.”

A healthy academic atmosphere no doubt entails self-exploration and experimentation in many realms of college life. Thus the Interfaith Council, United Campus Ministry, and university deans face a dilemma: Do they allow the International Church of Christ to stay on campus, allowing students to make their own evaluation, or do they ban the church from campus on the grounds that its methods do not allow students to make an informed and free choice?

Thin Skin and Dull Swords

Two professors at the University of Minnesota at Duluth were recently disappointed to learn that a three-member panel of the Eighth Circuit U.S. Court of Appeals had overturned a 1995 decision made in favor of their First Amendment rights. According to *The Chronicle of Higher Education*, the dispute that led to the 1995 decision began in 1991 when the two professors, Ronald Marchese and Albert D. Burnham, along with eight other faculty and staff members, posed for photographs for a student’s History Club project. Marchese, whose expertise is in ancient Greek and Roman history, placed a cardboard laurel wreath on his head and held a dull sword for the photograph. Burnham, an instructor of American military history, posed with his feet on his desk, wearing a coonskin cap and holding a pistol, which rested against his chest.

A few weeks after the History Club displayed the photographs, the university chancellor, Lawrence Ianni, ordered the university police to remove the pictures of Marchese and Burnham on the grounds that they “threatened faculty collegiality and were potentially disruptive to the learning environment.”

Two incidents prior to the display of the photographs—one a year earlier, and the other a few weeks earlier—led the administration to act so swiftly against Marchese and Burnham. Death threats had been made against a female history professor and against a female administrator. Both had criticized the environment for women at the univer-

sity. In the threats, each woman was referred to as a “feminist bitch.” In light of this, the administration felt that the photographs of the history professors contributed to a “climate of fear” on campus.

Marchese and Burnham, along with two members of the History Club, sued Ianni in 1993 on the grounds that he had censored the photographs, thus violating their First Amendment rights. They received a favorable verdict in 1995. But the most recent opinion, delivered by the Eighth Circuit Court of Appeals, and written by Judge Theodore McMillan, found that “Ianni need only have made a minimal showing of potential disruptiveness to justify his actions because Burnham’s and Marchese’s speech at best only remotely touched upon a matter of public concern.”

In his dissenting opinion Judge C. Arlen Beam called the actions taken by the university “unvarnished censorship” and questioned why professors could burn a flag on campus but could not express “conduct intended to support and publicize areas of teaching expertise within the department.”

From the Community at Large

A Community Lights Up

This past Hanukkah vandals smashed the living room window of Judith and Martin Markowitz of Newton Township, Pennsylvania, and destroyed their electric menorah. But by that same evening, 18 households on the Markowitzes’ and nearby streets featured electric menorahs in their front windows. By the last night of Hanukkah, seven more homes had joined the effort. More neighbors would have liked to display menorahs in their windows, the *New York Times* reported, but could not find them in any area stores.

Margie Alexander, herself a Roman Catholic, initiated the neighborhood effort the day after the Markowitzes’ home was vandalized: “We wanted to make sure the family knew that they had our support,”

said Mrs. Alexander. She and other neighbors decided that displaying menorahs in their own windows would be the best way to show support for the Markowitzes and indicate to the vandals that they now had other “targets.”

Lisa Keeling, another neighbor and also a Catholic, felt that the effort was a natural response to what she saw as a community issue. “I am shocked that so many people think this is something unusual to have happened, that a community would stand by their friends. People don’t expect anyone else to get involved. People are so used to everyone turning away and not showing any support for anything.” Ms. Keeling plans to display her menorah in her front window at Hanukkah from now on.

“The People’s Court” Goes to Minnesota

A major dispute between Northwest Airlines and WCCO-TV, Minneapolis’s CBS affiliate station, was recently heard and resolved by the Minnesota News Council, an independent, nonprofit organization designed to function as an alternative to sometimes ineffective letters to the editor, and costly, damaging libel suits in court.

According to a report in *The Wall Street Journal*, half of the council is affiliated with the media, and the other half represents the public sector. Paul Anderson, the council chair, is an associate justice of the Minnesota State Supreme Court. The decisions put forth by the news council are neither based upon legal precedent nor bound by law, and the council cannot award monetary compensation. Once a petition is put to the council, both parties must agree not to pursue further legal action. The reason participants turn to the council is the amount of public exposure it gets. Such exposure can often be more important to a company than the typical monetary compensation awarded in a civil trial. Since its inception in 1971, the council has heard 112 cases.

The dispute between Northwest and WCCO was the result of a three-part series reported by nightly news anchor Don Shelby, who accused the airline of violating national safety standards and putting intense pressure on mechanics to keep planes flying, resulting in “safety shortcuts.” A promotional clip for the series showed a Northwest plane flying nose down, as if headed for a crash. Northwest filed

a detailed report against WCCO and Shelby, questioning Shelby's sources and methods of obtaining information, and stating that his facts on Northwest's safety record were not put into context with those of other major airlines.

Before an audience of 200 people, the council heard testimony from both parties, and then deliberated and voted, still in front of the audience. By a vote of 19 to 2, with one abstention, the council determined that WCCO and Shelby had portrayed a "tainted, distorted" image of Northwest's safety standards. The council then voted 18 to 1, with three members abstaining, that the promotional clips that advertised the series were "distorted."

Although WCCO and Shelby were displeased with the verdicts, several major industry journalists do support the efforts of the Minnesota News Council, including prominent CBS anchor Mike Wallace, who states, "We are constantly looking down the throats of everyone else, yet when people want to take a look at us, we bridle."

In an interesting turn of events, Shelby and two producers were presented with a regional Emmy Award for their work on the Northwest Airlines series the day after the verdict was delivered.

Nora Pollock

"I believe in an open mind, but not so open that your brains fall out."

— Arthur Hays Sulzberger

THE COMMUNITY'S PULSE

THINKING ABOUT VALUES¹

How would you rate your own morals and values on a scale from one to 100 (100 being perfect)?

90 to 100	50%
80 to 89	26%
75 to 79	11%
0 to 74	11%

What kind of impact do you feel these social movements have had on today's values?

Civil rights movement:

Positive	84%
Negative	12%

Environmental movement

Positive	81%
Negative	13%

Women's movement

Positive	76%
Negative	19%

Family-values movement

Positive	69%
Negative	18%

Right-to-life movement

Positive	50%
Negative	41%

If you were hiring a new employee, which would you consider a strong reason for rejecting someone's application?

Past record of drug abuse	49%
Past record of alcoholism	18%
Having a homosexual relationship	11%
Having committed adultery	10%
Arrest in protest rally	3%

DISTRUSTING GOVERNMENT²

Do you think the federal government deliberately manipulates inflation and unemployment rates to mislead the public about how the economy is really doing?

Yes	48%
------------	------------

All figures based on national surveys of Americans.

1. *The Wall Street Journal*, December 13, 1996.

2. *The Washington Post*, December 15, 1996.

Compiled by Frank Lovett

KALEIDOSCOPE

SINGAPORE: ENFORCING THE FIFTH COMMANDMENT

Since June, 1996, over 200 elderly Singaporeans have sued their children for abandoning them in their old age. The high volume of litigation has even surprised Walter Woon, the legislator who sponsored the Maintenance of Parents Bill, which permits people over the age of 60 to sue their children for financial support. Just hours after the law took effect on June 1, K.C. Wong and his wife W.H. Soh, parents of seven children, brought their claim to the Tribunal for the Maintenance of Parents, asserting that they have been nearly destitute since a wealthy daughter cut off their allowance. "It seems that my daughter prefers to pay for the living expenses of her dogs rather than for ours," Mr. Wong remarked of his daughter who he said lives in a large house with a maid and three dogs.

Supporters of the new law were concerned about providing for the elderly in the small republic where the proportion of citizens older than 60 is expected to rise to 26 percent by 2020, up from 7.6 percent in 1980. Mr. Woon suggested that a law requiring those people who could afford to support their elderly parents to do so was preferable to the alternative of encouraging people to depend on the state, as many Western countries have done.

Singapore has become known for enacting stern laws in response to moral and social problems. And ironically, the demographic conditions that have provided the impetus for the new law resulted in part from earlier attempts at social engineering. In the 1960s, Singapore's

“stop at two” campaign brought the birth rate to below replacement levels. To persuade parents to stop at two, working mothers were allowed only two paid maternity leaves, hospital fees went up as a family had more babies, and third, fourth, and subsequent children were given lower priority in admission to schools.

Opponents of the parent-support law contend that it demeans “Asian values” by diminishing them to Western-style legal obligations. Some critics have dubbed it the “Sue Your Son Law,” arguing that applying to a court for financial assistance from one’s children is undignified.

Supporters of the parental maintenance measure counter that a society benefits from reminding itself of its core values and reinforcing traditional values. Mr. Woon explains: “A father can be compelled by law to maintain his children. A husband can be forced to support his wife. But a son without a sense of moral obligation to support his parents has no legal obligation to do so.” In proposing the bill, Mr. Woon suggested that the mere existence of the law would make it unnecessary for it to be invoked, except in rare circumstances. The public shame of being sued by one’s parents would dissuade people from shirking their moral obligations.

But the Tribunal for the Maintenance of Parents has been flooded with cases, and Singaporeans are wondering about the strength of their filial piety. Many of the cases, however, are not clear-cut, as was evident when the Tribunal rejected the \$567-per-month demands of an 80-year-old man whom the Tribunal discovered had abused and abandoned his children 33 years earlier.

EGYPT: RUNNING WITH THE DEVIL?

Recently, Cairo police arrested 80 members of a “satanic cult,” after seizing videotapes that showed them at parties and heavy metal concerts where blasphemous acts occurred. As evidence, the police cited compact discs by heavy metal bands Megadeth and Metallica, as well as t-shirts showing skulls and inverted crosses.

“They call for the veneration of Satan and profess that he was a victim of injustice,” according to a statement by the Interior Ministry.

“These worshipers of the devil organized musical parties...during which they wore clothes adorned with skulls and upside-down crucifixes and chanted mysterious sentences.” Police have raided the homes of suspects to search for compact discs and black t-shirts with the symbols of heavy metal bands, and also searched the Jukebox, a store that sells compact discs. Black nail polish and lipstick on women and ponytails on men have been reported to be signs of Satan-worshippers.

Many of those arrested are children of prominent Egyptians, including an actress, a composer, and a senior government official. Police say that the members of the cult met at least once a month at the Commonwealth cemetery in the affluent suburb of Heliopolis where they donned black leather jackets and t-shirts emblazoned with skulls. Allegedly, they listened to heavy metal music as they exhumed the skulls of Allied servicemen who fought Rommel’s troops in World War II. According to one 22-year-old student, that was not all they did. “We used to dance to heavy metal,” the student told the *Observer*. “After that we would slaughter a cat or a bird and smear our bodies with the blood. Most of us also got high on drugs or alcohol and each ritual ended with an orgy.”

Shortly after the arrests, the Egyptian parliament passed a measure condemning “deviation from the traditions of Egyptian society.” Government officials are calling for severe punishment of the offenders. Mufti Nasr Farid Wassel, the government’s chief religious advisor, declared that “If they persist in their debauchery, it will be necessary to carry out the punishments of the *Sharia*.” *Sharia*, or Islamic law, prescribes a death penalty for apostasy, and three years in prison for “undermining” or “deriding” religion.

While many Egyptian officials blame Western influences for the depravity of these youths, others point their fingers at Israel. The head of al-Azhar, the highest authority of Sunni Muslims, called the Satanic cult part of a Zionist plot. According to the *Egyptian Gazette*, Mossad, Israel’s intelligence organization, orchestrated Satanic orgies in Egypt.

CANADA: THE STATE’S CHURCH

The Supreme Court of Canada has ruled that while Ontario’s provincial and local governments finance Catholic schools, they are

not required to subsidize non-Catholic religious schools. The special treatment for Catholic schools dates back to the British North America Act of 1867 which established the Confederation between the French-speaking, Catholic Quebec and the English-speaking, Protestant Ontario. In order to accommodate both sides, the Catholic minority in Ontario was permitted to withdraw from the public school system and form separate Catholic school boards that would be publicly funded.

In Ontario, nearly 1.5 million children attend public schools and more than 600,000 go to Catholic schools. But there are also 60,000 children who attend non-Catholic religious schools. Ed Morgan, a lawyer who represented two parents' groups (one Jewish and one Dutch Reform) explained that "Ontario is the only place in the democratic world that funds one religion to the exclusion of all others." Mr. Morgan pleaded to the Supreme Court that Ontario should either adopt the American model, which prohibits public financing of religious schools, or Australia's, which funds all religious schools in amounts proportional to each denomination's population.

The justices ruled, however, that the government's support for only Catholic schools emanated from "a historical compromise crucial to Confederation." But the Court did mention that the law does not prevent the provincial government from supporting non-Catholic religious schools; it just does not require it. Manuel Prutschi, executive director of the Ontario region of the Canadian Jewish Congress, said that his organization would push provincial officials in Ontario for partial funding.

Michael Bocian

COMMENTARY

Of God and Country

The articles by Craig Dykstra and Rabbi Sacks (Winter 1996/1997) were a pleasure to read. Not only were they valuable in themselves; they represented a needed recognition on the part of *The Responsive Community* that religion and spirituality are of continuing social and political importance. People no longer believe in laws of history that decide which positions are reactionary and which progressive. The religion of political correctness, which attempts to ground social justice in the cult of Diversity, has largely faded, except among a few out-of-touch faculty and political sloganeers. (At least around Brown University, where the phenomenon first got its name, the lethal realization that diversity includes people of traditional religious views has finally taken hold.) The Nietzschean Left is self-destructive since it destroys any trace of reason why fortunate people should be asked to pay to relieve less fortunate people's afflictions (let alone the result of their indiscretions). Since Auguste Comte's proposal that social scientists should invent their own religion (atheistical Virgin Mary and all) has little to say on this matter, Judaism and Christianity are back in the political game.

Rejecting the slogan that God is dead is, however, only the beginning of wisdom. Communitarians need to realize that God—at least as He is portrayed in the Bible—is not just a champion of social bonds, or of the civil society that makes tolerable political society possible. He sometimes calls us to leave father and mother for His

sake. The prophets did not only reprove a falsely individualist spirituality that “acknowledges neither the necessity of discipline nor the power of sins confessed and sufferings shared,” as Dykstra well puts it. They also reproved a culturally captive religion that confirmed men and women in their collective self-conceit (as does Dykstra’s spirituality-in-the-good-sense).

On the political front, there is a formidable constituency disgusted with both parties; and this constituency is open, for good or ill, to new leaders and new programs. Those who speak of (or for) God in politics do so in a situation where what they say has unusual political relevance (though this should not be their principal motive for speaking). God is not the captive of any secular agenda, even that of the moderate wing of the Clinton administration. There are good reasons, even good religious reasons, for accepting liberal democracy as a political form, and favoring culturally sensitive social democracy as the best way of connecting political and social life. Religiously motivated civil disobedience after prayerful deliberation remains as much an alternative these days as in the time of Martin Luther King. To place God sometimes above country is not to be a theocrat; neither is it to be anti-American.

Philip E. Devine, Professor of Philosophy, Providence College

Communitarian Bioethics: Reasons for Optimism

Daniel Callahan is one of America’s leading bioethicists, yet his distinctive and consistent call to consider community concerns in bioethical issues (Fall 1996) stands apart from most others in the field. A neo-Kantian rights-based perspective has dominated American bioethics to a considerable extent. As Callahan observes, this trend has altered the patient-physician relationship substantially, which had remained fairly constant, albeit paternalistic, from the time of Hippocrates through the mid-20th century. Patient autonomy and informed consent have become the watchwords of American bioethics, fueled by outrage at instances of clinical and research malfeasance.

Cogent as these concepts are, unconditioned autonomy has led to its own excesses.

The emerging American bioethical ethos was both libertarian and liberal. Combining often unlimited commercial or government entitlements with unbridled autonomy produced a runaway consumption of health care. For example, intravenous drug addicts who develop kidney failure from the drugs' toxic effects consume inordinate and disproportionate quantities of health care services when they repeatedly reinfect their dialysis access devices. Patient autonomy without any counterbalancing societal values promotes a tyranny of sociopathies in health care as it does in other realms. As Callahan notes, our private choices affect others in society and cumulatively determine the culture.

Bioethics may have inadvertently paved the way for the corporate takeover of health care delivery by highlighting the moral shortcomings of the medical profession. Although the promise of lowered insurance premiums has been the driving wedge in the managed care revolution, the diminished moral agency of the physician was a prerequisite to this change. Bioethics' call for a decrease in physician authority, while mirroring society-wide deprecation of authority roles, prepares the ground for shifting medical authority to not only consumers but also to regulators and insurers of health care. It was unlikely that individual consumers could dominate such an enormous market.

Managed care, at its best, has the potential to reinvigorate communitarian bioethics because it refocuses the unit of interest from the individual to the insured population. This is particularly true when full risk capitation ties the health care of the defined population to a fixed sum of capital. Of course a substantive evolution of corporate values and structure is a prerequisite to developing the "participative HMO" that could then constitute a community of health care recipients and providers. A nonprofit approach to managed care is essential to the communitarian HMO vision because shareholders' interests in the for-profit approach overshadow the concerns of the community of care recipients and providers. Communal standards could be developed to provide rational, substantive inputs into medical decision-making in conjunction with the individual patient preference and

provider recommendations. This would represent an advance from the status quo and would prevent consumerist or market-based decisions from dominating to such an extreme.

However it is inconceivable that such a nonprofit corporate enterprise, in itself, could guarantee effective, caring health care services without some larger substantive consensus on societal goods. Agreement on values seems a fleeting memory, yet it is vital in order for a society to thrive morally and socially. No one has refuted Aristotle's observation that moral conduct is the product of social learning. Bioethics and the managed care revolution may provide the impetus to reexamine the prevailing *modus operandi*.

Communitarian bioethics is, then, a "pious hope." But this phrase should not have a pejorative connotation. Reverence for health could engender a rethinking of how the medical corporate enterprise functions at the beginning of the 21st century. Those of us in and outside of health care will need to develop substantive consensus statements in ways not previously thought possible in order to rejuvenate the social fabric within which health care is contained. Prescriptive consensus statements would serve as a countervailing social force to both individual demands and market driven interests. The Oregon Health Care Decisions Act and its process is an example of such an approach. (It involved a community-based consensus developing process which helped inform the related legislative action.) HMOs could, if properly restructured, become units of consensus decision making, smaller than statewide legislation.

Health care is too vital a human interest to treat it as just another commodity. However, a substantial set of social values is needed to guide corporate medical enterprises. This coincides with Callahan's third requirement for a communitarian bioethics: understanding the role of biomedicine in a broad conception of community. Health care with its indigenous moral nature is a very appropriate arena to engage the communitarian project.

*Arnold R. Eiser, M.D. FACP,
Associate Professor of Medicine,
Mt. Sinai School of Medicine*

CONTRIBUTORS

DANIEL A. BELL is a professor in the department of philosophy at the University of Hong Kong. He is author of *Communitarianism and Its Critics* and co-author of *Towards Illiberal Democracy in Pacific Asia*.

PAUL JEROME CROCE is an associate professor of American studies at Stetson University in DeLand, Florida. He is author of *Science and Religion in the Era of William James*.

MARK HULLIUNG is a professor of history and politics at Brandeis University. Author of several books on republicanism, he is currently researching liberalism and republicanism in America and France.

PHILIP LANGDON is author of *A Better Place to Live: Reshaping the American Suburb*. He is an associate editor of *The American Enterprise* magazine, from whose Nov./Dec. 1996 issue this article is adapted. *The American Enterprise's* subscription department is at (614) 375-2323.

JEFF MADRICK is the author of *The End of Affluence* and editor of *Challenge* magazine.

ALBERT SHANKER was the president of the American Federation of Teachers. One of our earliest supporters, a great friend and communitarian, he passed away in February.

PETER STEINFELS writes the "Beliefs" column on religion and ethics for *The New York Times*, which is where the article originally appeared. Copyright 1997 by The New York Times Co. Reprinted by permission.

GLENN TINDER is a professor emeritus of political science at the University of Massachusetts at Boston and the author of *The Political Meaning of Christianity*.

JEFF WEINTRAUB is a visiting research scholar in sociology and political science at Lehigh University. His article is adapted from an essay in Jeff Weintraub and Krishan Kumar, eds., *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (University of Chicago Press, 1997).

FRANKLIN ZIMRING is a professor of law and director of the Earl Warren Legal Institute at the University of California at Berkeley. Coauthor GORDON HAWKINS is a senior fellow at the Institute. Their new book is *Crime Is Not the Problem: Lethal Violence in America*.