

The Responsive Community

Volume 8, Issue 1, Winter 1997/98

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

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

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

UP FRONT

Absolutophobia

John Leo

In 20 years of college teaching, Professor Robert Simon has never met a student who denied that the Holocaust happened. What he sees quite often, though, is worse: students who acknowledge the fact of the Holocaust but cannot bring themselves to say that killing millions of people is wrong. Simon reports that 10 to 20 percent of his students think this way. Usually they deplore what the Nazis did, but their disapproval is expressed as a matter of taste or personal preference, not moral judgment. “Of course I dislike the Nazis,” one student told Simon, “but who is to say they are morally wrong?”

Overdosing on nonjudgmentalism is a growing problem in schools. Two disturbing articles in the *Chronicle of Higher Education* say that some students are unwilling to oppose large moral horrors—including human sacrifice, ethnic cleansing, and slavery—because they think that no one has the right to criticize the moral views of another group or culture. One of the articles is by Simon, who teaches philosophy at Hamilton College in Clinton, New York. The other is by Kay Haugaard, a freelance writer who teaches creative writing at Pasadena City College in California. Haugaard writes that her current students have a lot of trouble expressing any moral reservations or objections about human sacrifice. The subject came up when she taught her class Shirley Jackson’s “The Lottery,” a short story about a

small American farm town where one person is killed each year to make the crops grow. In the tale, a woman is ritually stoned to death by her husband, her 12-year-old daughter, and her 4-year-old son.

Haugaard has been teaching since 1970. Until recently, she says, “Jackson’s message about blind conformity always spoke to my students’ sense of right and wrong.” No longer, apparently. A class discussion of human sacrifice yielded no moral comments, even under Haugaard’s persistent questioning. One male said the ritual killing in “The Lottery” “almost seems a need.” Asked if she believed in human sacrifice, a woman said, “I really don’t know. If it was a religion of long standing...” Haugaard writes, “I was stunned. This was the woman who wrote so passionately of saving the whales, of concern for the rain forests, of her rescue and tender care of a stray dog.”

Both writers believe multiculturalism has played a role in spreading the vapors of nonjudgmentalism. Haugaard quotes a woman in her class, a “50-something redheaded nurse,” who says, “I teach a course for our hospital personnel in multicultural understanding, and if it is part of a person’s culture, we are taught not to judge....” According to Simon, we should “welcome diversity rather than fear it,” but he says his students often think they are so locked into their own group perspectives of ethnicity, race, and gender that moral judgment is impossible, even in the face of great evils.

In the new multicultural canon, human sacrifice is hard to condemn because the Aztecs practiced it. In fact, however, this nonjudgmental stance is not held consistently. Japanese whaling and the genital cutting of girls in Africa are criticized all the time by white multiculturalists. Christina Hoff Sommers, author and professor of philosophy at Clark University in Massachusetts, says that students who cannot bring themselves to condemn the Holocaust will often say flatly that treating humans as superior to dogs and rodents is immoral. Moral shrugging may be on the rise, but old-fashioned and rigorous moral criticism is alive and well on certain selected issues: smoking, environmentalism, women’s rights, animal rights.

Sommers points beyond multiculturalism to a general problem of so many students coming to college “dogmatically committed to a moral relativism that offers them no grounds to think” about cheating, stealing, and other moral issues. Simon calls this “absolutophobia” —

the unwillingness to say that some behavior is just plain wrong. Many trends feed this fashionable phobia. Postmodern theory on campuses denies the existence of any objective truth; all we can have are clashing perspectives, not true moral knowledge. The pop-therapeutic culture has pushed nonjudgmentalism very hard. Intellectual laziness and the simple fear of unpleasantness are also factors. By saying that one opinion or moral stance is as good as another, we can draw attention to our own tolerance, avoid antagonizing others, and get on with our careers.

The “values clarification” programs in the schools surely should come in for some lumps, too. Based on the principle that teachers should not indoctrinate other people’s children, they leave the creation of values up to each student. Values emerge as personal preferences, equally unsuited for criticism or argument as personal decisions on pop music or clothes.

But the wheel is turning now, and “values clarification” is giving way to “character education,” and the paralyzing fear of indoctrinating children is gradually fading. The search is on for a teachable consensus rooted in simple decency and respect. As a spur to shaping it, we might discuss a culture so morally confused that students are showing up at colleges reluctant to say anything negative about mass slaughter.

When Whites Are Discriminated Against

Nat Hentoff

In 1994, Jennifer Gratz, a young white woman, applied to the University of Michigan at Ann Arbor—the most prestigious college in the state. She graduated from high school with a cumulative grade point average of 3.765 out of a possible 4.0. She was 13th in her high school class of 298. Her extracurricular activities included tutoring students in math. Gratz’s American College Testing (ACT) score was

25 out of 36. That test, used in the Midwest, is the equivalent of the Scholastic Assessment Test (SAT).

Despite this impressive record, Jennifer Gratz was wait-listed at Ann Arbor and eventually was told she would not be admitted, even though black students with lesser grades and scores were admitted in the year in which she was rejected. Gratz is currently a junior and a math major at the University of Michigan in Dearborn, where she has made the dean's list several times. She is suing the University of Michigan at Ann Arbor because she wants its racial preferences policy declared unconstitutional—as a violation of the Fourteenth Amendment's Equal Protection Clause and Title VI of the Civil Rights Act of 1964. Gratz says: "I felt like I was discriminated against by race, and that's wrong."

For years, Professor Carl Cohen, a University of Michigan philosophy professor, has been trying to publicize his research proving that "preference by race is given systematically" to applicants for admission at this state university. That is, standardized scores and grades are differently assessed for whites and nonwhites. The university says it is committed to admitting a diverse student body, and race is only one factor in admissions—not the only factor.

What the University of Michigan may find difficult to justify in court is this report on its admission guidelines by Ethan Bronner in *The New York Times*: "A white student with a grade point average of 3.8 out of a possible 4.0 and combined SAT scores of 1,000 out of a possible 1,600—or an ACT test of 21 out of 36—would be rejected under the guidelines, whereas a black or Hispanic applicant with those same results would be admitted." This is a dual admissions policy—prohibited by the Supreme Court in the 1978 *Bakke* case and struck down by the Fifth Circuit Court of Appeals in the 1996 *Hopwood* case at the University of Texas Law School, a decision that the Supreme Court refused to review. The Texas case was won by the Washington, D.C.-based Center for Individual Rights, which is also representing, pro bono, Jennifer Gratz and another rejected white student, Patrick Hamacher, in a class-action suit.

Terry Pell, the lawyer for Gratz and Hamacher, expects he will win this case too, and I think he is right. The center is also litigating a similar antidiscrimination suit at the University of Washington Law School in

Washington state, and that should result in a further undermining of race-based affirmative action in college admissions. The University of Michigan case is the Center for Individual Rights' first lawsuit involving undergraduate admissions policies. It is not likely to be the last.

Moreover, in this case the center is trying to capture the attention of the heads of the nation's higher institutions of learning. The Michigan lawsuit asks for unspecified monetary damages from, among others, University of Michigan President Lee Bollinger in his individual capacity. The theory is that he knew or had reason to know that the Michigan affirmative action policies violated the constitutional rights of Gratz, Hamacher, and the other applicants in the class who had been denied admission solely because of the color of their skin.

Long ago, Supreme Court Justice William O. Douglas emphasized: "A finding that a state school employed a racial classification in selecting its students subjects it to the strictest scrutiny under the Equal Protection Clause.... The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." (That is also what California's vilified Proposition 209 says.)

Michael McDonald, president of the Center for Individual Rights, notes, "Though particularly egregious, the Michigan racial preferences are no different in principle from the affirmative action policies at many competitive colleges and universities in the country." As the lawsuits multiply, it will be interesting to see the reactions of college presidents held personally liable under federal civil rights laws. They are undeniably acting with admirable motivation, but they have misread the Constitution.

Thou Shalt Not Help Thy Kids

Amitai Etzioni

One might think that if parents dug deep into their pockets to help their children the parents would be kissed on both cheeks, maybe even awarded a new Colin Powell civil society award. Not so if parents rush to assist a public school in New York City, Denver, Los Angeles, or most other jurisdictions. A new “scandal” recently erupted at PS 41 in Greenwich Village when parents volunteered to raise the funds needed to keep a teacher who was about to be axed due to budget cuts. The parents quickly collected \$46,000, enough to cover a year’s salary and benefits. The parents of a second school, PS 98 in Queens, were preparing to follow suit, and a similar drive was being launched at Steck elementary school in Denver. (In the District of Columbia such practices are rather common, including in the school my children attended, Lafayette.)

Far from appreciating the parents’ efforts, Dr. Rudy Crew, the chancellor of the New York City school system, ordered the fund-raising be stopped. To avoid a lawsuit by outraged parents, Crew provided the monies required to retain the teachers from his budget, diverting them from some other unspecified school programs. Other school officials explained that the issue was one of “basic equity,” that the city could not allow affluent communities to provide richer education for their children than less-endowed neighborhoods provide for theirs. An ACLU representative told a Los Angeles audience that if parents were allowed to help the public school in their neighborhood, then the pressure to increase taxes—which he said were needed for the whole school system—would falter. He added that if parents were adamant about making a donation, they should put their money into the city’s pocket, so that all school children could benefit.

Parents were quick to point out that the opposite holds true. Middle-class parents in major cities are making a tentative attempt to return their children to public schools as cities gentrify, and there is some limited movement back to cities from the suburbs. These parents are driven primarily by two concerns: public safety and good schooling. Now that crime rates are down, the quality of the schools has become an even more central concern. If parents are prohibited from

helping their schools, this could become a major reason for them to remain in, or return to, the suburbs. In this way, the moves by Crew and those like him, far from protecting tax revenue for the schools, would end up shrinking cities' tax bases.

From an accounting viewpoint, the whole debate is laughable. Many public schools are beneficiaries of major contributions from parents, corporations, and foundations. These gifts help pay for playgrounds, copy machines, computers, musical instruments, materials for art classes and labs, field trips, and much else. Nobody objected until teachers' salaries became involved. The difference, though, is rather technical. There is little difference between the parents paying for the library and the school drawing on the funds thus released to pay teachers—or the parents raising funds for the school to pay certain teachers.

True, one may well object to a parental group insisting that a peculiar ideology or subject be taught by funding a teacher they feel would impart it their way. Educational policy should be determined by the school in consultation with all parents. However, this is not at issue in any of the schools involved. In these cases, the parents rallied to provide funds for teachers already on the payroll, who teach subjects included in the curricula; furthermore, the teachers involved were those the schools sought to keep but could no longer afford.

Above all, simplistic notions of equity should not come between parents and their children. As communitarians have long pointed out, we are not merely citizens of the city or the state, but are also members of various families and communities. We correctly sense that we have particular obligations to those closest to us, above and beyond those we owe to others. This is most evident when it comes to our families. The Old Testament commands "honor thy father and thy mother," rather than limiting itself to the abstract "honor fathers and mothers." Nobody in his or her right mind would suggest that we have the same obligations to all children as our moral sense informs us we have to our own children. The same holds true for other members of our families, from aging parents to siblings. And while in some visionary future we shall all become brothers and sisters, a government that tries to ban communities from extending themselves for their own kind—either in the current social environment or in the best one a reasonable person

can anticipate—will undercut the volunteerism and charity that is distinctive of civil society and that makes America great.

Nobody is suggesting that we should prevent people who wish to make contributions to the whole city or country or even world from doing so; they surely deserve our respect. But if there is a new scandal in our public schools, it is the ban imposed by city bureaucrats on communities rallying to raise funds for teachers for *their* children in *their* schools.

"I speculated about the meaning of these concepts, 'rights' and 'responsibilities,' to the American people. I opined that we do not consider the two in tandem, not unlike the Constitution. We emphasize rights almost to the exclusion of responsibilities, be they designated individual, political, human, simple, natural rights. They're something we've got. 'I've got my rights': that is a declaration that transcends demography."

Barbara Jordan

ESSAYS

Community and the First Amendment: A Vital Tension

Robert C. Post

This brief essay attempts to clarify the uneasy relationship between community and the First Amendment. It first offers a definition of community that facilitates useful analysis of the connection between community and the institution of the law. It then turns to the First Amendment. Legal safeguards for freedom of expression in the United States differ from those in almost all other countries in the world because our Constitution has been interpreted to protect abusive, indecent, and outrageous speech. This essay proposes an interpretation of the First Amendment that enables us to comprehend this treasured but nationally idiosyncratic understanding of freedom of speech. Finally, the essay examines the relationship between community and this interpretation of the First Amendment. It is a relationship founded in paradox, for the First Amendment both requires and repudiates communitarian values.

“Community” and “Norms”—Working Definitions

Most people conceive of community as occupying a particular time and place. They see community as a social order that has particular content, whether it be that of decency or the nuclear family. But in this essay I propose instead a definition of community that has no

content at all. The definition focuses rather on *how* people relate to each other. From this perspective, community refers to the idea of socialization, an idea that lies at the foundation of disciplines like sociology and anthropology. Socialization signifies the process whereby persons who are raised in a particular culture come to assimilate and identify with the standards and expectations of that culture. These become, so to speak, internalized into the very identity of persons who have been well socialized into the culture. The best description of this process of internalization is by the American theoretician George Herbert Mead, who wrote the following:

What goes to make up the organized self is the organization of the attitudes which are common to the group. A person is a personality because he belongs to a community, because he takes over the institutions of that community into his own conduct. He takes its language as a medium by which he gets his personality, and then through a process of taking the different roles that all the others furnish he comes to get the attitude of the members of the community. Such, in a certain sense, is the structure of a man's personality.... The structure, then, on which the self is built is this response which is common to all, for one has to be a member of a community to be a self.

For the sake of terminological simplicity, I shall use the term "norms" to refer to the group attitudes that we all carry around in us all the time and that form the foundation and possibility of our very selves.

Five aspects of such norms are worth stressing here. First, norms are not merely subjective; they are instead "intersubjective." They refer to attitudes and standards that persons have a right to expect from others. So, for example, when Charles Taylor refers to "dignity" as rooted in "our sense of ourselves as commanding (attitudinal) respect," he means, first, that dignity depends upon communal norms that define respect as between persons, and, second, that the right to dignity is not merely subjective, but involves claims that members of a community place upon other members of the community by virtue of the shared norms of the community.

Second, norms are not merely instilled during processes of primary socialization in the family, but are also continuously reinforced through forms of social interaction that, as sociologists like Erving Goffman have demonstrated, pervade every aspect of ordinary social

life. When these forms of social interaction are disrupted, so is the identity of well-socialized members of a culture. If others act in ways that persistently violate the norms that define my dignity, I find myself threatened, demeaned, perhaps even deranged. The health of our personality, therefore, depends in no small degree upon the observance of community norms.

Third, in the words of sociologist Kai Erikson, the totality of a culture's norms define "its distinctive shape, its unique identity." There is thus a reciprocity between individual identity and cultural identity.

Fourth, norms are both shared and evolving. Norms, like language, convey meaning only because of common expectations, and yet change over time.

Fifth, norms are therefore intrinsically contestable. There are constant struggles over the meaning of shared standards and expectations. As a consequence, cultures tend to establish institutions, like schools, that offer authoritative interpretations of norms. One of the most prominent of these, as we shall see, is the institution of the law.

We can, therefore, conceive of community as a way of creating social order by internalizing norms into the identities of persons. Because some such internalization must occur for a person to have a "self," community is a primary form of social organization; it is always with us. We value it as we value ourselves. But because the particular norms that we have internalized are always in an historical process of evolution, the particular norms that we happen to identify with community are always threatened, always slipping away. Community is thus always invested with nostalgia.

The Interplay of Community Norms and the Law

One important method of stabilizing community norms is the institution of the law. In the 20th century we have become accustomed to a particular view of law as a tool of instrumental reason, as a means of social engineering for the achievement of given objectives. So, for example, we might use parking regulations to make the traffic flow efficiently in certain downtown streets, or we might use the tax code to encourage efficient allocation of capital resources.

But the law has traditionally performed (and continues to perform) a distinct and equally important function, which is the articulation and enforcement of community norms. One can see American law doing this, for example, whenever it references the “reasonable person” as a ground of judgment. When the law of negligence asks how a “reasonable person” would act in particular circumstances, it essentially asks a jury to determine and enforce the norms of the ambient community. The standard of the “reasonable person,” it should be emphasized, does not ask a jury empirically to predict these norms in a statistical, descriptive sense, as would a detached social scientist. It rather charges a jury to engage in the fully normative enterprise of deciding how persons “ought” to be expected to behave as members of a shared community. The law imposes on each of us the obligation to act reasonably on the assumption that socialized persons are already aware of this obligation by virtue of their common membership in community life.

Legal regulation of speech, ranging from the proscription of libel to the protection of privacy, has typically been an attempt to subordinate expression to community norms. Liability for the tort of public disclosure, for example, depends upon a plaintiff’s demonstration that a defendant’s speech “would be highly offensive to a reasonable person.” When imposing liability for the intentional infliction of emotional distress, the law requires a jury to ask whether a particular communication was “outrageous and intolerable in that it offends against the generally accepted standards of decency and morality.” The law’s definition of “outrageousness” is quite explicit: “Generally, the case is one in which the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, ‘Outrageous!’”

We may stress four aspects of the legal subordination of speech to community norms. First, the law does not enforce all community norms that involve speech, but only the most important of them, which I shall call “civility rules.” Second, the law often presumes that the identity of persons is dependent upon the observance of civility rules. Thus, in actions for libel and invasion of privacy, the law will assume that the violation of civility rules will damage persons. Third, legal intervention to uphold community norms performs a dual function. It both upholds the shared vision of community identity implicit in

civility rules, and it protects the selves of individual members of a community who are subject to violations of those rules. There is therefore no necessary tension between individual rights and community values, as some have claimed. Fourth, to the extent that civility rules are, like all community norms, contestable, or to the extent that the geographical jurisdiction of the law encompasses more than one community, legal enforcement of civility rules will necessarily be hegemonic. It will either impose the civility rules of one community upon another, or it will impose one interpretation of those rules upon members of a community who do not share that interpretation. The law cannot escape this hegemonic task so long as it seeks to enforce and stabilize community norms. Yet such enforcement and stabilization may be essential for the maintenance of our social and individual identity.

The Purpose of the First Amendment—Competing Interpretations

The First Amendment is a very special kind of law, because it is addressed not to the general public, but to other lawmakers. The First Amendment essentially determines what kinds of laws and regulations may be enforced by the state. At first blush, it seems as if the First Amendment prohibits all laws and regulations that restrict speech. But this cannot be true.

If by “speech” we mean communication, then almost all of social life consists of communication, and to forbid laws that restrict communication would therefore be to forbid almost all laws. But this is plainly not the case. So, for example, the law regulates the making and enforcement of contracts, which are surely a form of communication, with virtually no interference from the First Amendment. And the law similarly regulates directions and warnings on consumer products, with virtually no guidance from the First Amendment, although surely these are communications.

The First Amendment, therefore, does not proscribe government restrictions on speech; it proscribes those restrictions on communication that are inconsistent with the purposes of the First Amendment. As a consequence, to understand the First Amendment we must inquire into the nature of these purposes.

One purpose that is sometimes proposed is that the First Amendment expresses a generic distrust of government when it comes to the regulation of speech. But this theory is too weak to explain the pattern of First Amendment law, for surely we trust the Federal Trade Commission to regulate trade, including the making of contracts, and surely we trust the Consumer Products Safety Commission to regulate products, including their warnings and instructions.

A second purpose that is often proposed refers to a general autonomy interest in speech. It is said that speech is fundamental to human autonomy and that it therefore merits special constitutional protection. But this purpose also has difficulties explaining the pattern of First Amendment jurisprudence. Let me suggest two reasons why this is so. First, in First Amendment contexts, autonomy typically figures on both sides of an equation. Thus, if you intentionally subject me to emotional distress, my autonomy interest in not being distressed must be weighed against your autonomy interest in saying what you wish, and for this reason autonomy tends to drop out of the equation altogether. Second, the claim of autonomy, although it is dressed in the language of speech, is ultimately merely a variant of the generic claim to human freedom. Precisely because such a claim can be invoked always and everywhere, it is very dilute. It is outweighed every time the state must regulate behavior. For this reason autonomy interests in speech are easily overridden by competing interests. Thus, when a doctor claims an autonomy interest in giving whatever bad advice she chooses to her patient, the First Amendment does not shield the doctor. Nor does it protect the lawyer who claims an autonomy interest to say whatever comes into his mind in a courtroom. Autonomy is thus too abstract and pervasive an interest to explain where and when First Amendment protections actually obtain.

A third First Amendment purpose that is often invoked is that of the “marketplace of ideas.” This refers to the public and social search for truth. While this purpose does constitute a significant presence in First Amendment jurisprudence, it cannot explain the particular First Amendment decisions that are most nationally idiosyncratic and yet that place the First Amendment most at odds with community. These decisions protect not merely what is said, but the manner of expression. They safeguard from government restrictions speech that is deeply uncivil or outrageous or malicious. Examples of such deci-

sions, which are often seen as paradigmatic First Amendment cases, are those that strike down the prohibitions on flag burning or that limit the regulation of indecent, abusive, or malicious speech.

The reason why these decisions cannot be explained by the marketplace of ideas is that the search for truth presupposes rational deliberation, and rational deliberation is itself a form of social coordination that, like all such forms, depends upon civility rules. Thus John Dewey once remarked that the possibility of rational deliberation depends upon “the possibility of conducting disputes, controversies, and conflicts as cooperative undertakings in which both parties learn by giving the other a chance to express itself,” and that this cooperation is inconsistent with one party conquering another “by forceful suppression...a suppression which is nonetheless one of violence when it takes place by psychological means of ridicule, abuse, intimidation, instead of by overt imprisonment or in concentration camps.” Dewey’s point is that there can be no search for truth when persons merely shout at each other. His point should be immediately obvious to anyone who has ever attempted to teach a class; except in highly unusual circumstances, no responsible teacher would allow her classroom to degenerate into merely abusive exchanges. The marketplace of ideas, therefore, does not justify protecting expression that is intended merely to injure and not to contribute to truth, nor does it justify protecting uncivil expression that is not perceived as a contribution to rational dialogue but rather as, in the words of the Supreme Court, “aggression and personal assault.”

Constitutional protection for such speech can be justified only by a more general and more powerful explanation of First Amendment doctrine. This explanation lies in the purpose of promoting democratic self-governance. In American constitutional law, democratic self-governance refers to the aspirations of the people to govern themselves. But what it means for a group of citizens to govern themselves is actually a very complex and difficult subject to understand.

At a minimum, it means that citizens must have some sense that the decisions and actions of their nation are responsive to their will. The master theorist of this connection was of course Rousseau, who postulated a correspondence between the particular wills of individual citizens and the general will of the state. But in the 20th century

most theorists have regarded this postulate as far too strong. They have instead argued that democratic legitimacy requires (1) that the public should have a warranted belief that the decisions and actions of the state are responsive to public opinion and (2) that all citizens must have the opportunity freely to participate in the formation of public opinion. Public opinion is thus conceived as mediating between the particular wills of individual citizens and the general will of the state. It performs this function by including all citizens in an open invitation to participate in an ongoing process of rational deliberation.

If the speech necessary for the formation of public opinion is called “public discourse,” we can say that collective self-determination occurs when through participation or potential participation in public discourse, the citizens of a state come to identify with the actions and decisions of their government. The First Amendment protects public discourse to safeguard the legitimacy and possibility of democratic self-governance. If the state censors the speech of a citizen within public discourse, it cuts that citizen off from the possibility of participating in collective self-determination.

This concept of collective self-determination is quite different from that depicted in the work of Alexander Meiklejohn, or in that of his modern successors like Owen Fiss or Cass Sunstein. For these authors, the First Amendment protects speech so as to ensure a flow of information that is understood to be essential for knowledgeable decision making. Meiklejohn, Fiss, and Sunstein thus stress the right of the collectivity to receive information, rather than the right of individuals to participate in collective self-government. But this focus does not correspond very well with traditional First Amendment doctrine, which distinguishes between collective self-determination and the power to make particular decisions. First Amendment doctrine protects the ability of citizens to participate in defining our national identity, and hence to engage in collective self-government.

This account of the First Amendment has quite powerful consequences that illuminate a good deal about the actual shape of First Amendment jurisprudence. Most importantly for our topic, it explains why the First Amendment suspends the enforcement of civility rules within public discourse, but not elsewhere.

If *persons* in community are conceived as embedded within pre-existing norms that define and sustain their identity, *citizens* in public discourse are by contrast conceived as autonomous, as committed to the process of deciding the nature and future of their collective fate. This autonomy would be fatally compromised if the state were to impose civility rules upon public discourse, for citizens would then be cast as already constrained and captured by one form of community rather than another. For public discourse to provide a site for autonomous self-determination, it must itself remain perennially open-ended, perpetually subject to revision and experimentation. It cannot be constrained to represent the norms of one community rather than another. Writers like Meiklejohn, Fiss, and Sunstein typically condone state enforcement of civility rules within public discourse because they conceive democratic decision-making as occurring within the context of a stable community identity. They equate that identity with laudable norms, like decency and equality. But in fact the concept of democratic self-determination cannot be so easily confined, because these norms are themselves contestable. Within the realm of public discourse, one might say, there is not merely a marketplace of ideas; there is also a marketplace of communities.

The First Amendment and Community: A Paradoxical Relationship

To summarize our analysis thus far: Community is based on the norms that reciprocally establish both individual and collective identity. Not infrequently these norms are enforced by the law. The primary purpose of the First Amendment, however, is to promote democratic self-determination, which inheres in an open-ended process of generating individual and collective identity. What, then, can be said about the relationship between community and the First Amendment?

The first and most important point is that democracy must presuppose community. There are several reasons why this must be true. First, democracy presupposes autonomous citizens, but persons can exercise autonomous choice only if they have already, through socialization, been brought into the possession of a personality and a self. Second, the very value of self-governance, upon which democracy depends, is itself the product of a particular kind of community, one which, through processes of socialization, instills and maintains the

value of collective autonomy. Third, public discourse can translate the individual wills of citizens into the general will of the nation only if public discourse is perceived as a process of rational dialogue, and community rules of civility are what define and constitute dialogue as rational. The failure to comply with civility rules almost invariably makes speech seem, in Dewey's words, intimidating or abusive.

But if a healthy democracy requires and presupposes the existence of a healthy community, if a major purpose of the First Amendment is to provide the basis of democratic legitimacy, and if democratic legitimacy itself requires the First Amendment to suspend the enforcement of community norms within public discourse, then the First Amendment can accurately be said to be founded on a paradox.

One important consequence of this paradox is that the First Amendment will not define public discourse in such a way as to obstruct the reproduction of the healthy community that makes democracy possible. Mechanisms of primary socialization, like public schools or the family, will not be subject to the constitutional restraints of public discourse. So, for example, the First Amendment has been interpreted by the Supreme Court (in *Bethel School Dist. No. 403 v. Fraser*) to permit a high school to censor "lewd speech" on the grounds that it was "a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse" so as to "inculcate the habits and manners of civility." And the First Amendment has also been interpreted (in *FCC v. Pacifica Found.*) to authorize the FCC to enforce "contemporary community standards" to prohibit the broadcasting of "patently offensive" speech at "times of day when there is a reasonable risk that children may be in the audience," at least in part on the grounds that "broadcasting is uniquely accessible to children" and hence could frustrate "the government's interest in the 'well-being of its youth' and in supporting parents' claim to authority in their own household."

A second consequence of this paradox is that within public discourse the First Amendment will not be interpreted to suspend the enforcement of civility rules when the very ability of public discourse to continue to function as a form of public deliberation is seriously undermined by the loss of civility rules. While the First Amendment has been interpreted to give a heavy presumption to tolerance within

public discourse, there are nevertheless limits, as the doctrine of fighting words demonstrates.

The upshot of this analysis is that the First Amendment bears a highly unstable relationship to community. With respect to any particular government regulation enforcing a civility rule within public discourse, as for example the recent prohibition on flag burning, it can be argued either that enforcement of the prohibition is necessary to sustain community life, so that striking down the prohibition would ultimately undermine democratic self-governance, or that, to the contrary, the enforcement of the prohibition violates the tolerance required by democratic self-determination, so that allowing the prohibition would needlessly displace and therefore damage democratic self-governance.

One may conclude from this that the application of the First Amendment requires judgment: judgment about the sources and strength of community norms, judgment about the strength and sources of democratic legitimacy, judgment about the social consequences of enforcing or invalidating particular regulations. The relationship between freedom of speech and community is thus highly dependent upon contingent matters of history and culture. That is one reason why different democratic countries have displayed such different notions of freedom of speech. A hallmark of American exceptionalism, after all, is our extreme separation of public discourse and community. No other country allows such a breadth of defamatory, indecent, abusive, and outrageous utterances.

To comprehend why our First Amendment has taken the idiosyncratic path that it has followed in the years since 1940, one must understand that, in contrast to other countries like Canada, England, France, and Germany, where there has been a strongly hegemonic set of community norms that national legal systems have unproblematically enforced within public discourse, the United States has witnessed in the last half-century a truly functioning marketplace of communities. Our flamboyant individualism is surely the most striking sign of this marketplace, as is our tendency to regard particular communities as voluntaristic and hence incapable of sustaining group rights. Because of this history, our conception of freedom of speech has actually functioned analogously to our Establishment

Clause: it has ensured that the state will remain strikingly and exceptionally neutral as between competing communities, each seeking to use the force of law to impose its own particular norms and standards upon public discourse.

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Can Faith-Based Groups Save Us?

Joe Klein

One morning last spring, the Reverend Eugene F. Rivers III, who leads the Azusa Christian Community, a Pentecostal church in an impoverished corner of the Dorchester section of Boston, paid a ministerial visit to the nearby Oliver Wendell Holmes Public School. “I’ve got to check in on America’s worst nightmare,” he told me. “Ten-year-old kid. His daddy was shot through the head. His mama’s got ‘chemical’ issues. He’s a ringleader. You can just see it. He’s been getting into trouble—they already caught him with a knife. He’ll be packing a Glock before long, unless someone gets to him.”

Walking briskly to the Holmes school—it almost seemed a forced march—through winding streets lined with modest frame houses, Rivers greeted many of the people he passed by name. “Hey, Rev,” they saluted back. “Flash boots,” one young man called out, noticing the Reverend’s tan construction boots. Rivers is a relatively small man, alternately thoughtful and raucous, an intellectual who also happens to be an evangelist.

Rivers’s style of ministry represents a significant challenge to the political community beyond his neighborhood. His message is that religious institutions are better equipped to deal with the problems of the poor than the government is, and that they should receive public support to do everything from crime prevention to welfare reform. It is an argument that has intensified in recent years, and has found its way to Washington. “I don’t know if we’ve reached this point because these programs have succeeded,” a White House aide told me, “or because everything else has failed, but this certainly seems to be the hot social-policy topic these days.”

On the walk to the Holmes school, Rivers pointed out several local landmarks. Ripley Road Park was once a base camp for drug dealers, and it is still an occasional battle zone, but it is also the site of a notable victory. Rivers had stationed himself there in the early nineties, when he began to organize a group of 43 other ministers, mostly from small black congregations, into a coalition that took their churches to the streets. During prime crime time—weekend nights, weekday afternoons—they hung out in parks and on street corners and held vigils in front of crack houses, shaming the police into action and then working with them to clean out the trouble spots.

“We just said we’re gonna *be* here,” Rivers recalled. “And the dealers understood: If I’m controlling this street corner, then you’re not. If I win, you lose. Mess with me and I’ll sic the white boys on you.” But the dealers did not go quietly. Two of them fired gunshots at the row house just around the corner from Ripley Road Park where Rivers lives with his wife and two children. Several local kids later pointed out the bullet holes to me; the shootings had become a neighborhood legend.

Kareem (not his real name) did not look like America’s worst nightmare; he was too young and too slight to seem much of a threat. He was not scowling, or angry; his face was blank, his eyes impenetrable. He had very dark skin, and hair done up in haphazard plaits. Rivers had a brief conference with the school principal, and learned that Kareem had been suspended several weeks earlier for carrying a knife and had since been involved in several afterschool incidents. Then Rivers met with the child in the school library.

“Hey, money,” the Reverend said, taking a seat. “You know what I’m doing here? I’m gonna keep you outta jail.” The boy stared at him without expression. “What do you like to do?” Rivers asked. “You like movies?” Kareem nodded. “What do you want to see?”

Kareem finally spoke. “‘Anaconda,’” he mumbled.

“Tell you what,” Rivers said. “I’ll take you to see ‘Anaconda’ if you can stay out of trouble between now and Friday. You know what I’m saying? No more knives. I’m gonna wring your monkey butt, I catch you with a knife.”

“I didn’t have no knife,” he said.

“Oh, yes, you did,” Rivers said. “Now I’m gonna be checking up on you. I’m gonna come round your house, talk to your mother after school. Where are you gonna be?”

“Home.”

“Home, what?”

“Home, sir.”

“Give me five,” Rivers said, and Kareem dutifully held out his palm for a slap. “All right! You the *man!*” Rivers said, standing. Kareem also stood, and the Reverend hugged him close. “You know that I love you, right?” Kareem smiled nervously. “We’re gonna keep you out of jail. Go on back to school now. All right? *Oh-kay.*”

Afterward, Rivers said to me, “You see that smile? You see the way he lit up? See, he’s doable. We can get him. But you got to do an intensive thing with him. He’ll go for the love thing, ‘cause he’s never seen it from a black male before. He’s almost wishing someone would care enough to spank him.”

Boston’s Ho Chi Minh

Eugene Rivers was born in Boston 47 years ago and was brought up in Philadelphia, the son of a Pentecostal mother and a Black Muslim father. “That’s Gene,” a friend of his says. “A perfect Muslim Pentecostal.” Rivers spent a good portion of his youth experimenting along the wilder shores of street life and radical politics. He finally settled in at Harvard as a 30-year-old undergraduate protégé of Martin Kilson, a professor of government. There, Rivers formed a black Pentecostal student group called the William J. Seymour Society. It was named, he says, for “the one-eyed black man who launched the first Pentecostal revival, on Azusa Street in Los Angeles, in 1906.”

Rivers left Harvard in the mid-1980s, when he and his wife, Jacqueline, accompanied by about a dozen members of the Seymour Society, moved to Dorchester to live their faith, recasting themselves as the Azusa Christian Community. “We had a very New Testament vision of what a church should be,” Eva Thorne, a longtime Azusa member who is now a graduate student at the Massachusetts Institute of Technology, says. “We saw it as a community rather than a building.

We decided to become an *intentional* community, which meant sharing our resources and working with the poor, according to the model set out in Acts, chapters 2 and 4. It was a radically Biblical ethic: you stay with the people, you are accountable, you don't let careerism drive you. Most of the other blacks at Harvard were deeply into careerism of one sort or another. I think some of them thought we were a cult."

A decade later, Rivers's anti-careerist career is in excellent shape. Because of his crime-fighting work, he is now a well-known figure in Boston, and his reputation is growing nationally: he was selected for the religious roundtable at Colin Powell's Volunteerism Summit; he was part of Bill Moyers's televised Book of Genesis Bible study; and he has been the frequent subject of newspaper and magazine articles. At times, to the dismay of the other Azusa Community members, he can seem something of a showboat, an urban-social-policy performance artist. He calls himself a Christian Black Nationalist and claims Ho Chi Minh as a hero. But he also says, "Liberalism has had a devastating impact on the moral and spiritual life of black people," and "The only thing that stands between this community and nihilism is the black church."

That statement is hyperbole, but it is certainly true that religious institutions are taking on much more responsibility for the care of the poor, often with the help of local governments. "You couldn't function effectively without the ministers in Boston," says William J. Bratton, who was the city's police commissioner in the early nineties, when Rivers was helping to organize the local ministers. "Those churches, and leaders like Gene Rivers, were a very significant reason for our success" in sharply reducing juvenile crime rates. The city has not had a gun-related homicide among teenagers since August 1995.

Rivers has led his share of protests, but what he actually does each day is neither noisy nor controversial. "Mentoring" is the least confrontational urban program imaginable. But the work requires a great deal more time, patience, and faith than have been advertised. Many of the speakers at the Volunteerism Summit encouraged adult "role models" to spend three hours a month with "at risk" youth—an admirable idea, which may even make a difference for some of the less alienated kids. But Rivers would have to spend three hours with Kareem before this particular day was over, and the next day Rivers

and his Azusa Community youth workers would be back. Their presence in the community is constant. “When you look at the gutbucket stuff, the everyday, in-your-face working with troubled kids in these neighborhoods across the country,” the Princeton University criminologist John J. DiIulio says, “almost all of it is being done by people who are churched.”

Churches have always ministered to the poor. They have run shelters, soup kitchens, basketball leagues, and schools, as well as drug-counseling and job-training programs. But in recent years, as the federal commitment to the poor has waned, there has been a new interest in “faith-based” social programs. Indeed, more than a few cities, Boston among them, have come to see the churches as the most reliable institutions in poor neighborhoods, and have begun to smudge the line between church and state by quietly funding various church-run programs. “For the past four years, we’ve been working very closely with the churches,” Thomas Menino, the mayor of Boston, says. “They have a mission. They get it done.” Milwaukee and Cleveland have gone even further, initiating voucher plans that enable poor students to attend religious schools—programs that will undoubtedly be challenged all the way to the Supreme Court.

Being There—Again and Again

It is dusk on the day of my visit to the Azusa Community’s parish house, and kids from the ages of five to seventeen were doing homework, playing games, and draping themselves over Azusa’s three full-time youth workers—one of whom is paid by the city of Boston—and some high-school volunteers. Downstairs, a group of young men—first-time offenders, sentenced by the municipal court to do community service at Azusa—were in the midst of a “fatherhood” class led jointly by state probation officers and Azusa youth workers. There was no overt proselytizing, but Milton Britton, a probation officer attending the meeting, gave moving testimony on the importance of faith in his own life. (At their next session, Britton later told me, Rivers gave a fire-and-brimstone sermon on sexual probity and fatherly responsibility.) The Reverend prowled from room to room, leading a weekly prayer group for some of the core Azusa members, consulting with the youth workers about the next day’s priorities, meeting with a member of Representative Joe Kennedy’s staff, and chatting with

parents as they came to pick up their children from the afterschool program.

Just as the evening's activities seemed to be winding down, three neighborhood boys showed up at the parish house and demanded to see Rivers. They had been in a fistfight with Kareem and some of his friends. Kareem had not been the primary offender, they said. That was Tony.

"*Little Tony?*" Rivers huffed. "I stood up for him yesterday, when those two kids ripped off his jacket. What did Kareem do?"

"He kick me in the head after Tony knock me down," the smallest boy said.

"Kareem did that?" Rivers asked. The boy nodded. "I'll tell you what I'm gonna do. I'm gonna squash the beef with Kareem."

"What about Tony?"

"I'll squash it with him, too."

An hour later, we all stood on the porch of Tony's house as Rivers rapped on the door. A woman holding a can of beer opened it. The room behind her was dimly lit and smoky. ("Grunge city," Rivers later said.) Little Tony stood partway up the stairs, and Kareem was standing behind him.

"Kareem!" Rivers said. "You here, too? Well, all right, then. I want you out on the porch—and you, too, Tony. And who else is here? You, too, Buddy? Out on the porch. Kareem, is that your mama? Ma'am, mind if I come in for a moment? You boys go on out."

The boys stood on opposite sides of the porch, in two groups of three. "I didn't do nothin'," Kareem said, glaring at the others.

When Rivers came out, he took his belt off and smacked it on his palm melodramatically. "O.K., Kareem," he said. "What went down?"

"Nothin'."

"Nothin' what?"

"Nothin', sir."

"O.K. Kareem, I can beat the black on you or beat the black off you, whichever way you want," Rivers said.

In the end, no one got spanked. The two youngest boys admitted that their fistfight had been a continuation of a long-standing tiff, and no one was willing to testify that Kareem had piled on. Rivers slapped five—hard, ringing smacks—with each of the boys, then hugged them.

Later, Rivers and I went to his house. We sat in a living room overwhelmed by books, and he asked me what I thought about what I had seen.

“I don’t know,” I said. “I’m not sure what you accomplished.”

“Well, the big thing I accomplished you didn’t see,” he said. “I said to Kareem’s mother, ‘You know I love Kareem like my own son. Is it O.K. if I discipline him if he cuts up?’ And she said yes. See, it’s a very delicate class thing. They know I’m part of the community, but they still think of me as Harvard. And the last thing any of these women have is ‘Don’t touch my child.’ She was willing to give me that. She wanted me to be the authority figure. And that’s another thing I accomplished: those kids came to me with their beef. They didn’t just go out and settle it. If I get them to the point where they’re saying, ‘Here comes the Rev, we can’t do that around him,’ then that’s something, too.”

Then Rivers sighed and sat down. It was late. “But if you’re looking for some kind of breakthrough, forget about it,” he said. “It’s just day to day. It’s letting them know I love them and I’ll always be here. Look, it may come down to this: If Kareem takes down a bank when he’s nineteen, and he’s holding hostages, I’ll be able to say to the cops, ‘I know that boy. Let me go in and talk to him.’”

The next day, one of the Azusa youth workers, a 25-year-old named Matthew Gibson, held a pizza party for Kareem and his friends. “We had the whole gang there,” Rivers told me later. “Before they ate the pizza, Matthew said grace, and the kids really got into that—the quietness and the ceremony of it. We’re going to make it a regular, weekly deal.”

Applied Academics

Two years ago, John DiIulio—who, at the age of 36, had built a formidable academic career at Princeton and the Brookings Institution—found himself on the cusp of an unexpected personal transfor-

mation. In the midst of another study, DiIulio noted that there were an awful lot of churches in poor neighborhoods. “I didn’t remember ever seeing anyone doing a standard regression on churches and crime,” he said. “Every other factor—I mean, everything you could imagine—had been studied. But no one had really looked at whether churches had any impact on crime in their immediate vicinity.”

He began to visit churches in his native Philadelphia, and he soon met the Reverend Benjamin Smith, of the Deliverance Evangelistic Church, who has been ministering to young people for 30 years. (In the sixties, one of the teenagers he counseled was Gene Rivers, whom he pulled away from the gang scene.) “Ben Smith went door to door,” DiIulio says. “It was the living Gospel, the walking Truth. What he was saying to these kids was ‘We care about your salvation as much as we care about our own.’ He wasn’t proselytizing. He wasn’t saying, ‘Read this tract.’ What he was providing, and what there is no substitute for, was unconditional love.”

DiIulio had always believed in God. He had lived his life as a perfunctory Catholic. But on Palm Sunday, 1996, when he was sitting in church with his wife and their three children, he suddenly decided that his life had to change. He had spent his career defining problems, but these ministers seemed to be living the solutions. “They were committed to doing it twenty-four, seven, three sixty-five, and I decided that if I didn’t do that, too—if I didn’t spend my life helping them—then damn me.”

He resigned as director of the Brookings Center for Public Management. He tried to resign from Princeton, too, but he was asked to stay on half-time. “And, anyway, the ministers were telling me that for what I was doing being a Princeton professor was a useful credential,” DiIulio says. “They didn’t need a fat white boy out on the streets. My comparative advantage was my ability to read more boring academic shit than anyone else on the planet.” So he set up an organization with funding from a foundation called Public/Private Ventures. “We even have an acronym. It’s—Well, O.K., it’s PRRAY. The Partnership for Research on Religion and At-Risk Youth.”

DiIulio is trying to raise money for the churches, mostly by teaching them how to write grant proposals and get funding to expand their programs. He is also helping the pastors who run youth pro-

grams to learn from one another. His main task is an attempt to prove, beyond the shadow of an academic doubt, that faith-based programs are the most efficacious way to deliver social services. “We have to be above reproach, because there is such deep suspicion and hostility in the elite research community to this sort of work,” DiIulio says. “You can go through thousands and thousands of studies, and people don’t even look at the religion variable. So I’m going to spend the next five years doing a comprehensive study of what’s happening in the churches in seven cities.” He will have to find out how many of the churches have youth programs, what sorts of programs they have, and what percentage of the children in those programs get into trouble with the law (and then compare that finding with local juvenile-delinquency data). “I also want to crank up the reliability of the material we already have,” DiIulio says. Referring to the work of Charles Colson, the former aide to Richard Nixon who became a born-again Christian, he says, “For example, we know that prisoners who do Chuck Colson’s Prison Fellowship Ministries program have a 14 percent recidivism rate one year out,” versus a 42 percent rate for other prisoners. “But what does it look like *two* years out?”

There has been a steady growth over the past decade of serious research on the effects of religion upon other social policy questions. For example, a number of major studies show that parochial schools have better success than public schools with inner-city kids. There are also studies on the effects of faith upon the treatment of alcohol and substance abuse. “I began to notice this a few years ago,” says Joseph Califano, the Secretary of Health, Education, and Welfare in the Carter administration, who is now the president of the National Center on Addiction and Substance Abuse, at Columbia University. “It started turning up in polling we did on attitudes toward alcohol and drugs: children who grew up in religious families were much less likely to get involved. Also, in a program we’re running for ex-offenders, a tremendous proportion said they could not make it without God. It took me by surprise—I hadn’t been focused on this piece of it. But there’s no question about the relevance of God and spirituality to what we’re doing, and we’ve decided to start injecting a significant religious component when we measure the effectiveness of new programs.”

Such testimony invites skepticism, of course. From Karl Marx to Alcoholics Anonymous, there has always been a feeling that religion

is God's own methadone for the addictive personality. There is a class of programs, including certain drug-treatment centers and certain prison ministries, like those administered by Colson or the Nation of Islam, that promise immediate salvation: accept Jesus (or Allah) and you can liberate yourself from your life of degradation. The religious opiate is clearly preferable to the chemical variety, but there is also a not very subtle coercive aspect to this process: If you *don't* accept Jesus as your personal Saviour, then you are doomed. But it is the less overtly coercive programs—across a spectrum of social issues, including education, job training, juvenile justice, and welfare services—that suddenly seem to be attracting the attention of policymakers and politicians. “We’ve gone down every other road,” says the political scientist James Q. Wilson, who is now at U.C.L.A. “This is one road we haven’t explored, and the initial indications are that it’s a very appealing one.”

A New Way to Overcome

A new generation of black ministers seems to have decided that youth counseling will be its version of the civil rights movement. “I don’t think my generation of ministers is any more idealistic than the civil rights generation,” said Harold Dean Trulear, a 42-year-old professor at the New York Theological Seminary, which specializes in urban ministries. “But that generation moved from the ideal to the institutional. Our challenge is to keep it in the streets—to not lose sight of the basic ethic of Jesus.”

The civil rights generation also had a faith in the power of government which many of the younger ministers do not share. After the years of marching and organizing, most of the civil rights activists were supportive when the Great Society attempted a secularized expansion of the social services that religion had traditionally provided the poor. Many churches and larger denominational organizations, like Catholic Charities, participated at arm’s length. They created secular “pass-through” corporations to accept government funds to build housing and run daycare programs—but they had to remove religious artifacts from church basements. In the eighties, however, as federal funds began to dry up and a generation of fatherless kids succumbed to crack addiction, the churches found themselves all alone in a war zone. In Boston in 1992, a funeral at the Morning Star

Baptist Church was disrupted by a battle between rival gangs. “It was a wake-up call,” Gene Rivers says. “If we didn’t get out of the four-walled church, the walls would collapse.”

Initially, relations between the Boston ministers and the police and the courts were uneasy. In 1992, Rivers held a “tribunal” on police violence. “Gene Rivers wasn’t exactly welcomed when he would show up at the Dorchester Court,” Ron Corbett, of the Massachusetts Probation Department, says. “We went through a phase where we were pretty skittish about dealing with religious organizations, but we found we were wrong.” Now Azusa has a quasi-formal presence at the Dorchester Court; one of its youth workers acts as an “advocate” for youthful offenders, helping to find alternatives to incarceration. “I have never seen anything like it in 23 years in this business,” Corbett says. “It has given a much more human face to the criminal justice system.”

The question now is whether the politicians—and the courts—are ready to move toward a more explicit relationship: one that acknowledges that the “faith” in faith-based programs is often the very quality that makes them successful. “It seems the churches are the only institutions with any credibility left in some communities,” Bruce Reed, President Clinton’s domestic policy adviser, says. “The family’s broken, the government isn’t trusted.... That doesn’t necessarily mean we’ll be seeing religious organizations take over as the main service providers. But if you’re asking whether it’s no longer fashionable to be anti-religion in these matters, the answer is yes.”

Which is not to say that the issue has been resolved, or is even clearly understood, in Washington. “This is a politically inconvenient conversation for both traditional liberals *and* conservatives,” Jim Wallis, the editor of the magazine *Sojourners*, says. Conservatives have problems with the fact that many of the religious people running social programs want the government to spend more money on the poor, but the faith-based movement is even more politically inconvenient for liberals. They have no trouble with the “pro-poor” part of the agenda, but many of them have traditional civil-libertarian concerns about using taxpayers’ money to support religious institutions. And, on a less exalted level, the Democratic Party is strongly supported by government-employee unions, who are vehemently opposed to anything that diverts funds from existing public bureaucracies.

Representative Tony Hall, a Democrat who has been active with religious charities, expresses a different worry. “We do have to be careful,” he says. “There are some real thieves in this business.” The more thoughtful religious activists acknowledge the problem. They fear that the sudden availability of government money may lead to an efflorescence of charlatans—or, at the very least, a funding of the not entirely inspired—and that even the best programs will suffer from bureaucratization and bloat. Still, it is hard for any American politician to be anti-God, and traditional liberals tend to tapdance when the faith-based issue is raised. “We have to get *everyone* more involved in solving these problems,” the House Minority Leader, Richard Gephardt, told me, taking great pains not to be any more specific. “I’m not a constitutional law expert. We have to do what can be done legally.”

Congress Takes a Step

Actually, there was a fascinating test case in 1996. A little noticed but potentially earthshaking provision of the welfare-reform bill, introduced by the Republican senator John Ashcroft of Missouri, gave local communities the “charitable choice” to replace public welfare services with faith-based agencies. It passed the Senate handily, in a recorded vote, with 17 Democrats joining the Republican majority in support; in the House, it was folded into the overall welfare bill. (Bruce Reed says that the president supported charitable choice.)

In the Senate, the Republican support was nearly unanimous and pretty reflexive: religion—good; welfare bureaucrats—bad. But several of the Democrats—a minority of the minority—seemed closer to the social-gospel spirit percolating up from the streets. “Some of the best antipoverty work I’ve seen has come from faith-based agencies,” said Minnesota’s Paul Wellstone, who voted for charitable choice but against the final welfare bill. And Nebraska’s Bob Kerrey said he wants to go further: “If I were running a public school system, I’d sign a contract with the parochial schools—as Mayor Giuliani wanted to do in New York—and have them educate some of the poorest kids. I don’t see the First Amendment as so rigid that it prevents us from contracting with people who are getting the job done right.”

These remain stray voices. And charitable choice was a stray vote: it did not arouse any passionate opposition in the Senate. It was almost

as if the senators assumed that no state would go to the trouble of actually trying to put it into effect. If so, they were wrong. Texas is trying. Governor George W. Bush has proposed a voucherized welfare system that will be part public, part private, and part faith-based. He has already fenced with President Clinton over the “private” part (which Clinton has opposed, at the behest of the public employee unions, who fear the loss of jobs). No doubt Bush will soon be facing a confrontation with secular liberals as well, over just how far a state can go in summoning churches to help implement social policy.

Consider, for example, the case of Tillie Burgin of Arlington, Texas. Through her local church, Burgin began providing various services to the needy in her community. Out of this grew Mission Arlington, which on an average day serves more than 500 families. The Mission provides food, clothing, day-care, medical care, and afterschool programs. And Bible studies. Most of the funds come from private sources, but in recent years the City of Arlington has begun to pay for some of the mission’s services with federal block-grant money. According to Governor Bush, Mission Arlington is perfectly suited to provide services for the poor in the new welfare system he envisions. “Within a year, I hope people will be able to take their vouchers to Tillie, and lots of others like her,” Bush says. “I want Tillie to be reimbursed for her love.” Burgin would welcome such an expanded role, but she does have one worry: “If they won’t let me teach John 3:16, I won’t do it.”

That is a worry—and no small point of law. Governor Bush insists that faith-based programs will not “be dictated to by government. We want them involved on their terms, not ours.” But that might not be legal; it is almost certain to be challenged in court. The line that separates church and state is neither clear nor straight; the “bright line” principles that evolved during the 20th century seem almost arbitrary, and may well shift during the next few years. For example, one of the most successful social programs in American history, the G.I. Bill, was a voucher system that allowed returning veterans to receive an education in public, private, or religious colleges. But the lower courts have prohibited similar systems from being put into effect for children on the elementary- and secondary-school level. (Milwaukee and Cleveland are challenging that standard.)

The guidelines on public support for other forms of faith-based programs are even muddier. As the law now stands, religious institutions are allowed to run government programs as long as the funds are not used for sectarian purposes or for proselytizing. But what constitutes proselytizing? No one is quite sure. “The law as it stands makes no sense,” says Stephen Carter, a professor at Yale Law School and the author of *The Culture of Disbelief*. In recent Supreme Court cases, the Justices have leaned toward a less strict interpretation of the church-state line, which “may be an indication that the law is going to change.”

But Carter worries about the effects of government funding on the programs themselves. “You run the risk of becoming a very different sort of program when you start competing for the state money,” he says. “And the strings the government attaches to the money may force you to compromise your faith.”

In Detroit, an urban mission called Joy of Jesus ran a very successful job-training program that specialized in placing welfare recipients who had multiple “barriers” to work—the hardest cases. The governor of Michigan, John Engler, was so impressed with the program that he offered to fund it through a secular intermediary organization, with certain conditions: there could be no more morning prayers or intensive Bible study. The program soon fell apart. “After running four twelve-week training sessions under the new rules, we realized it just wasn’t working without the Bible study,” Kevin Feldman, the director of development for Joy of Jesus, told me, “and so we gave the money back.”

Was Joy of Jesus proselytizing, or was it simply sharing workplace wisdom culled from the world’s most famous self-help manual? Is the Azusa Community proselytizing when a youth worker leads children in saying grace before serving them pizza? Is Tillie Burgin proselytizing when she asks people if they would like to join Bible study while she is offering to pay their bills? She claims not. “We don’t jam our faith down anyone’s throat,” she says. “If they don’t want to do Bible study, that’s fine. We still love them.”

Less God?

The new generation of social evangelists does seem less didactic. “There was a time when you had to hear a sermon and accept Jesus

before you could get a meal and a bed in a Gospel Mission,” Jim Wallis of *Sojourners* says, “but that’s fading away.” What the activists are advocating—and what the government must decide whether or not to fund—is a model that has three components. The first is, basically, what John DiIulio calls unconditional love. “These are God’s creations,” a priest working on drug-abuse prevention in North Philadelphia told me. “They were put here for a greater reason than to purchase sneakers.” The second component is a mutual respect and civility, which Gene Rivers and every nun I have met in a year of occasional visits to parochial schools demand from the children in their care. These two fundamentals are not exclusive to faith-based programs, but the third component does seem uniquely religious. It is the creation of a sense of serenity and security, which would seem a particularly valuable gift for children who have been surrounded by the chaos, violence, and relentless commerce of postmodern poverty all their lives. “We were poor before, but we were never as crazy as this,” Eugene Rivers says. “What’s happened is that hope has died, and secular liberals can’t speak to the death of hope. They don’t have the grammar or the vocabulary for it. We do.”

In a Chicago parochial school last summer, I watched an African American nun try to get the attention of a dozen three-year-olds from the housing projects—many of whom had been born crack babies—during their first week of preschool. The children were bouncing off the walls. The nun said, “Children,” and put her hands together in prayer: “Children, sit down and find your power.” Two or three children understood immediately, sat down, and put their hands together; the others continued to race around the room. The nun quietly repeated the request. Several others sat down, and gradually even the most unruly children began to sit with their hands clasped in front of them. Finally, the room was silent. The stillness was soothing and profound, something that most of them had probably never experienced before—something that they had been able to achieve only by joining together. Then the nun began to teach them the alphabet.

SYMPOSIUM

Elliott Abrams
Ethics and Public Policy Center

The manifest failures of the welfare state present challenges to both liberals and conservatives, as Joe Klein's account suggests.

For conservatives who have called for a strengthening of "civil society" and a return to it of some functions they believe the government has usurped, the grim portrait of urban poverty raises the question of what is left of that "civil society," at least in some parts of our nation. Even if one grants that many welfare programs have harmed those supposed to be helped by them, what now? Does the welfare cut-back alone suddenly bring back a belief in virtue? Are private institutions, which according to conservatives have been weakened during the last half-century, strong enough to do all that will be thrust upon them?

For liberals, the entire issue of virtue is problematical—not least because it requires moral judgments of the sort liberals often wish to avoid, and because an emphasis on virtue seems to require a larger role for churches. If Klein is right in thinking, as does John DiIulio, that black churches are a critical resource in achieving *secular* goals, like crime reduction, will liberals remain so doctrinaire about current and fairly extreme views of the First Amendment? The Supreme Court has in recent years seemed to step back from its own extremes on separation of church and state, so the question for liberals is whether to applaud and urge more, or to fight.

While conservatives have some thinking to do, it is mostly about effective public policy options rather than fundamentals. Liberals are in deeper trouble, for in recent decades they have taken the view that religion is dangerous to civic virtue. Now they are told that religion is indispensable to personal morality and vital in solving many social problems. What if that "wall of separation" that has been read into the First Amendment turns out to separate problems and their solutions?

One possible solution, already in use, is to slip some money more or less under the table to faith-based groups. Bad idea. Let's have the

debate we need about religion's place in American society, and if we are reading the First Amendment wrongly as requiring radical separatism, let's move back to a more sensible accommodation. Does the Establishment Clause really mean that Reverend Rivers is on his own?

James R. Kelly
Fordham University

Religion responds to the most powerful of all human needs: the needs for final meaning and for a hope beyond despair. In secular societies, these most powerful of human needs cannot be met by government—especially a government that is increasingly structured to facilitate economic productivity and only weakly legitimated by a rhetoric of merit and equal opportunity. Increasing affluence without increasing the ethos and experience of community is a recipe for the anomie and alienation that has been endlessly chronicled in sociological studies. Given this reality, even secular intellectuals and policymakers must rethink the relationship between religious communities and the good society. The privatization of conscience and the marginalization of religious institutions no longer represent winning liberal conceptions of church-state thinking. In his essay, Joe Klein gives dramatic life to this concern.

Klein captures the power of religious ministry for those whose disorganized lives and chaotic communities have not benefited from our growing national affluence. Unlike banks, churches cannot abandon hopeless lives and marginalized areas; their theologies require unconditional belief in the inherent dignity of each human. These beliefs, indeed, can inspire lives of heroic dedication to the marginalized, a dedication that attracts willing support from their non-heroic but admiring co-religionists.

These elemental truths about religion have recently been rediscovered by social science. John DiIulio's embrace of "solidarity" as part of authentic intellectual work is one step in this rediscovery. Secular liberals cannot be too far behind this retrieval of the power of religion for community solidarity and personal coherence, especially since liberal reason and politics are justified in the last analysis on

appeals to “data.” Recent attention to successful community action programs inevitably document the indispensable role of the churches. (Ironically, this scholarship increasingly employs the term “social capital,” thus paying homage to the penetration of capitalism into even those categories of thought seeking to challenge an economic logic.) The test for liberals will be whether, in light of this rediscovery of the importance of faith, they will be able to critically examine their *own* articles of faith.

Conceptually, this does not have to be too hard. It mostly requires that in our “constitution talk” we substitute the far healthier metaphor “line of separation” for the fundamentalist liberal “wall of separation,” and thus encourage the courts to give as much attention to the First Amendment’s “free exercise” as to its “no establishment” clause. *Practical reason*—that is, wisdom—will be harder to achieve. We can only learn as we go along, community by community, state by state, dropping stereotypes and building trust as we proceed. There is no formula. But there are already some clear first principles. For example, do not penalize community service providers that are run by religious organizations simply because they insist on maintaining their religious identity. There need be no more “Tillie Burgin” stories, as in Klein’s report. Liberals should not necessarily assume that the religiously motivated are any less interested than liberals are in preserving freedom of conscience. The empirical likelihood that state support for religious secular services will establish religion in any “anti-conscience” sense is as remote as the Dodgers returning to Brooklyn.

I think the more substantial, and worthy, liberal fear is that the conservative promotion of religion’s public role will be exploited to further the “privatization” of social justice. This will be a major test for the religiously committed. Liberals and the religiously committed might together reflect on a pivotal scene from Klein’s story. Back home after his successful intervention stopped a potential street brawl, Rivers asks Klein what he thought he saw. Klein answers, “I’m not sure what you accomplished.” If Rivers’s life challenges liberal arrogance, Rivers’s sobering answer challenges religious pieties: “[I]f you’re looking for some kind of breakthrough, forget about it. It’s just day to day. It’s letting them know I love them and I’ll always be here. Look, it may come to this: If Kareem takes down a bank when he’s nineteen,

and he's holding hostages, I'll be able to say to the cops, 'I know that boy. Let me go in and talk to him.'"

In other words, besides unconditional love, Kareem needs his absent father, father and son both need a job, and Kareem's mother needs, among other things, health insurance. The Azusa Christian Community can give support but not "solutions." The long-term solution is justice. Religious social ethics can help not merely through motivation and anchored hope, but also in their social wisdom. Catholic social thought, for example, dialectically relates "subsidiarity" and "solidarity"—while the former requires that all government interventions result in stronger local communities, the latter asserts that to remain vital, local communities often need some government help.

At their best, religious social teachings measure economic progress by how much it helps the worst off. The recent emphasis on family values coupled with a rejection of government intervention may ideologically sustain an economistic conservatism, but it does not sustain ordinary families. As liberals become "communitarian," they might appropriately challenge the religiously committed to retrieve their own traditions, which certainly encourage charity, but also require justice.

Julie A. Segal
Americans United for Separation of Church and State

Many churches and other religious organizations provide excellent services to the needy. If that were the only point of Joe Klein's article, I would not need to write this commentary. My difficulty instead is with the suggestion that "religious institutions are better equipped to deal with the problems of the poor than the government is, and that they should receive public support to do everything from crime prevention to welfare reform." Unfortunately, it is not that simple. Klein seems to brush over critical issues of church-state separation as merely obstacles to effective public policy or as pesky details.

The Supreme Court has consistently held that government funding of “pervasively sectarian” organizations, such as churches and other houses of worship, violates the Establishment Clause of the First Amendment. Under the principle of church-state separation, taxpayers should never be forced to support religious indoctrination. Since many “faith-based” programs include a religious message, very few things could advance a religious mission more than government requiring people to go to church to receive their benefits. Thus, funneling tax money into houses of worship for this purpose is unconstitutional.

This prohibition against houses of worship receiving public funds does not exist to be hostile to religion. Church-state separation is a two-way street; it exists not only to protect taxpayers from funding a religious viewpoint with which they may disagree and to protect beneficiaries of government-funded services from unwanted proselytization, but also to protect religious institutions from government intrusion. This does not mean that religious organizations cannot participate in government programs. In fact, many religious organizations already compete for and receive millions of dollars worth of government grants to provide social services. These religiously affiliated groups, such as Catholic Charities, Lutheran Services in America, and Jewish Family Services, provide a wide array of services within many communities. Although associated with houses of worship or denominations, these organizations generally provide publicly funded programs without a religious message and with other appropriate constitutional safeguards.

The section of welfare reform that Klein refers to as “charitable choice” changes these rules in complicated and yet undetermined ways. Charitable choice fails to include adequate constitutional safeguards. For example, while it is heartening that Congress acknowledged that it is unconstitutional to use public funds for religious purposes, will this prohibition be enforced with intrusive government monitors? Charitable choice requires government financial audits, oversight of funding of religious activity, and myriad other regulations. This means that the government will inevitably become entangled in the affairs of otherwise autonomous religious groups. In addition, while churches currently are exempt from many laws that apply to other organizations, if these religious groups receive fund-

ing—thus becoming government contractors—then these religious exemptions will be called into question and perhaps nullified. In sum, charitable choice will not achieve what one of Senator John Ashcroft’s staffers told me was the intended result—to give churches “the shekels without the shackles.”

Furthermore, if, as Klein suggests, the success of church-run programs is the faith, then how successful would the programs be if the faith were removed? As Timothy Lamer told the *Weekly Standard*, “Christian charities do so well because Christ changes lives.... Without proselytizing, then, Christian charities will be no more effective than government....” In fact, the same Ashcroft staffer recently told churches at a welfare conference at Howard University Divinity School that if their programs are so imbued with religion that it is impossible to segregate out the secular social services, then maybe charitable choice is not for them. Thus, ironically, organizations that exist to spread a religious message would be prohibited from doing exactly that, thereby illustrating why government and religion should remain separate.

Charitable choice also raises other concerns. Once government starts funding religious organizations, people will rightly demand accountability on how the funds are spent. (Imagine the public outcry if the Branch Davidians received a government contract.) In addition, religions will compete against one another for scarce government resources. Government will thus be forced to fund the more than 2,000 religious denominations that exist in this country, or attempt to pick and choose among religions.

Also, government funding will likely strangle the vitality of many religiously motivated programs and adversely affect the religious mission of many houses of worship. If the government funds services traditionally funded by the church community, a natural result could be a drop in contributions by church members. Many churches are aware of this risk and strongly resent the dual role expected of them in welfare reform. They are expected to be the safety net to serve those who will no longer be on the welfare rolls as a result of cuts in benefits, and, simultaneously, they are expected to contract with states to provide services on behalf of the government to those still on welfare.

In addition, Klein is not quite correct in saying that “there has been a new interest in ‘faith-based’ social programs.” Religious groups

have played a key role in helping the poor and needy since the founding of the American republic. Since the 18th century, houses of worship have often been the only places people in need could go for a bowl of soup or a cot for the night. What is new is the scheme by which churches are to operate social services with taxpayer dollars instead of with the voluntary contributions of their parishioners. Klein is also not correct that President Clinton supported “charitable choice.” In fact, the president attempted to correct the constitutional infirmities after the bill was enacted, but was thwarted by Senator Ashcroft.

Some elected officials are sincerely looking for a way to expand the successful services churches and other houses of worship provide. Unfortunately, the way that was chosen either fails to pass constitutional muster or fundamentally alters the way churches can run their programs. It is possible for the government to work in partnership with religious institutions in ways other than funding religious programs. If churches need more resources, then perhaps better incentives for charitable contributions are necessary in our tax law. All too often, we look for simple answers to complicated questions. Unfortunately, giving churches public funds is not the panacea Klein makes it out to be.

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National Center for Neighborhood Enterprise

Throughout 1992 and 1993, my organization conducted a series of town meetings to identify possible remedies to the problems of poverty. For two years I traveled to sites in seven regions of the country and invited grassroots leaders to tell us “What Works and Why.” Those who testified included Native Americans from New Mexico reservations, grassroots leaders from inner-city neighborhoods, and activists in rural white communities and poverty-ridden mining towns. They had responded to a general call to testify, yet they all carried the same message: Faith works.

More important than the words they spoke was the living evidence of their testimony. Wherever I went, I saw people who had been damaged, whose lives had been shattered, who were made whole

again. This was incontestable empirical evidence. I talked to people who had been in prison, men who had infected their own sons with drugs, women who had been alcoholics and prostitutes—people all the “experts” said were beyond hope. And I saw them transformed. In Washington, D.C., through the intervention of a faith-based “Alliance of Concerned Men,” two warring youth factions that had once held their neighborhood in a virtual state of siege are now involved in a common project of community renewal. Now employed, one of the gang members broke into tears as he filled out a health insurance application for his baby daughters, realizing that, for the first time, he was able to provide for them as a father.

Given that such faith-based outreach has been effective in tackling societal crises that have continued to expand—across boundaries of race, ethnicity, and income level—in spite of government expenditures of more than \$5 trillion on conventional strategies, why haven’t these grassroots programs become the focal point of our nation? Why haven’t we invested the resources necessary for them to continue, expand, and export their life-salvaging work?

While the major part of Klein’s discussion focuses on opposition to government funding of faith-based initiatives, the challenge to government funding is not the greatest problem that grassroots initiatives encounter. In the following passing comment, Klein sheds light on the source of some of the most debilitating obstacles that block the adoption of faith-based alternative strategies: “[G]overnment-employee unions...are vehemently opposed to anything that diverts funds from existing public bureaucracies.”

Within the last 30 years a virtual “poverty industry” has emerged in which paychecks and careers rest on a client base of dependents who are serviced. Simultaneously, the issue of race has spawned another industry whose “experts” spread a message of victimhood and entitlement. When “experts” claim ownership of a problem they can do many things with it. They can appear on television talking about it, they can write books on it. They can chair university departments on it and they can “service” the problem. The one thing they cannot do is solve it. Both professional service providers and those whose careers and celebrity rest on the problems of racism and poverty view as unwanted competition those successful grassroots

organizations that have solved societal problems and boosted men and women to self-sufficiency. The political allies of conventional experts and service providers have rallied to defend their turf.

The withholding of funds is not the most damaging weapon that has been used against faith-based grassroots groups. Most of these organizations have performed their quiet miracles for years on shoestring budgets with little or no outside support. Much more damaging has been the intrusion of government agencies with regulations and requirements for certification that are irrelevant to the methodology employed by these grassroots programs and counterproductive to their efforts. Consider the following examples:

- Victory Fellowship, a substance-abuse program that has transformed the lives of 13,000 hardcore drug addicts and alcoholics throughout more than 25 years of service, was founded by a husband and wife who had personally achieved victory over addictions. Their most effective staff members are recovered addicts who have led hundreds of others on their pathway to freedom. Government authorities have threatened to close down this program, which receives no government funding, because the staff do not hold academic degrees necessary for certification.
- Young people living on the street come to Victory Fellowship as a safe haven, yet regulations prohibit the organization from taking them in because they are minors.
- While the majority of conventional homeless shelters receive funds on the basis of a count of “heads and beds,” Step 13 is a grassroots program whose founder, a recovered alcoholic, believes that his mission goes beyond “warehousing” individuals whose homelessness is due to drug or alcohol addictions. In more than a decade of service, Step 13 has moved its residents gradually up a ladder of self-sufficiency, to steady employment and successful entrepreneurship. A key element in this journey from addiction has been the demand for accountability and reciprocity. All residents of Step 13 perform some work in return for their room and board. This linchpin of effectiveness came under attack with government regulations that would have demanded that its director pay FICA and full employee benefits to his residents.

Talk of funding aside, the grassroots neighborhood healers should demand that, at least, government agencies accept the guidance of the simple Hippocratic oath: “Do no harm.”

Harold O.J. Brown
Center on Religion and Society

The ancient Chinese writer on military topics, Sun Tzu, said “When the war is protracted, the resources of the state will be insufficient.” Thirty-odd years ago President Lyndon B. Johnson announced, with much fanfare, the War on Poverty. It has been protracted, and the resources of the state are proving insufficient. Now help is coming from an unexpected quarter, from one that the state had increasingly disregarded and disdained, namely, “faith-based” programs. These cost the state far less money than its traditional forms of welfare intervention, but they also threaten the pure form of the doctrine of the separation of church and state. These initiatives are growing up unexpectedly, like mushrooms in dark places, but they are proving so unexpectedly nourishing that government is not merely tolerating them but actually funding some of them.

Although for decades the assumption reigned that social problems should and would be resolved by appropriate monetary support, it has become increasingly evident that most “leading social indicators” (to borrow Bill Bennett’s expression) have not improved as money has been poured out upon problems, and in fact have worsened at an alarming rate. Now certain religious groups, often single individuals, have launched low-cost, poorly financed, labor-intensive projects in economically distressed high-crime areas of modern American society. Not only are they labor-intensive, it is undeniable that they are love-intensive; and, as the proverb has it, *amor omnia vincit*.

There was a time when a sort of generic Christianity enjoyed a favored role in American public as well as private life; but particularly since the Supreme Court’s prohibition of school prayer and Bible readings in the early 1960s, government at all levels became increasingly suspicious of and even hostile to religion. Now suddenly the bland religious sentiments that were banished from schoolhouses and

other public buildings and spaces are returning with vigor and fresh conviction in places where they might least be expected, among people of the type that Jesus called “the least of these my brethren.”

The movements that Joe Klein describes differ strikingly from one another in many respects, but they do have a number of things in common. They are generally not related to the traditional and main-line churches—the ones whose school prayers, Christmas parties, “shared time” religious education, etc., were vigorously thrown out of secular society. Instead Klein’s subjects subscribe to a robust Pentecostal or evangelical type of Christianity, generally not tied to the more prominent denominational structures. Local initiatives such as Eugene Rivers’s Azusa Community and Charles Colson’s Prison Fellowship have been gaining not merely the tolerance that secularist watchdogs had denied religious manifestations in schools, but have begun to receive public funding with increasing frequency, silently and successfully bypassing the usual strictures against “entanglement” between church and state.

As these initiatives continue to make headway, with the blessing and occasionally the financial support of the government, they will certainly come under the guns of the type of civil libertarians who successfully drove prayer and the Bible from public spaces. But they may survive the coming barrage for three reasons: first, they are having a remarkable helping and healing effect upon social ills that seemed chronic and incurable; second, they are being promoted by the type of rough-hewn believers who are not as easily frightened off as are sophisticated denominational executives; and third and perhaps most important in light of government budget constraints, they are achieving successes to a degree of which better-funded official agencies can only dream.

Richard M. Valelly
Swarthmore College

Why does the idea of putting the “faith factor” into policy for at-risk youth appeal to so many different political persuasions? The answer may be that we’re putting our bets on a simple (and thus

powerful) view of how adults and kids “at risk” can work well together. The supposition here goes something like this: “the mentoring of urban at-risk youth by caring and responsible adults can improve the life-chances of such youth, particularly if the adults are highly religiously motivated.”

In other words, the Reverend Eugene Rivers trusts in God; the people who gave Gene Rivers the money to do God’s work are (or ought to be) trusting in crystal-clear causal postulates. Bear with me as I push this contrast between belief and positivism. An academic I know at MIT, across the river from where Gene Rivers gets up and works every day, rightly says that intelligible approximations of real world trains of events look basically like this:

$$A \longrightarrow q \longrightarrow B$$

Peer under the hood of a clear conjecture and this is often what you see: A is the uncaused cause; B is the effect; and q is some mechanism that explains why and how A causes B.

Other things being equal, experiments in social engineering ought to rest on stories that can be reduced to *that* kind of form. If we retell the promising prophecy embedded in Joe Klein’s report, it can be stripped down to this: “A” is some level of time-consuming and regular work by caring and responsible adults who are, like Gene Rivers, willing every day, again and again, to correct and talk with at-risk youth; “q” is some degree of personal transformation among teens who come into contact with the at-risk ministry of adults like Gene Rivers (this personal transformation is the mechanism through which “A” affects “B”); and “B” is some decrease in involvement of these teens in gangs, drugs, irresponsible sexual relations, and anti-academic postures at school.

There is, of course, one vital “extra,” and that is faith. It conditions both how hard, thoughtfully, and sensitively people like Gene Rivers or Eva Thorne are willing to work and what they communicate to teens about the meaning of their experience. The relevant causal conjecture has, in other words, a major specification: adult mentoring works, *particularly* if it is religiously motivated.

This brings us to a second surmise inhabiting the excitement over the faith factor. It says, approximately, that “government and philan-

thropic action to increase the number of religiously motivated adults available for mentoring of at-risk youth will lead to more such mentoring, leading in turn to greater decreases in teen involvement in at-risk behaviors.” (By now you can easily figure out which is A, which is q, and which is B.) Thus, in depicting immensely talented people doing God’s work in very difficult places, and succeeding, Joe Klein’s article also exercises an attraction for people who think about social policy because it implicitly suggests the extremely simple logic that goes into government and philanthropic support of the faith factor.

Now you might ask: So what? Who cares if simple, plain propositions are in the background of Joe Klein’s portrait? You might even say, “The trouble with you policy wonks is how you flatten and caricature rich human struggles and relationships.”

That has a couple of answers. First, scarce resources, whether public or private, should be used prudently. Prudence in turn depends on the quality of the guesswork that is behind the use of these resources with respect to two issues: how much of an effect? and how quickly? The simple theories lurking behind the growing government and philanthropic interest in the faith factor say: a lot, and pretty fast.

Second, and relatedly, if something goes wrong in developing this admirable experiment with the faith factor and teens—which might happen (as anyone with teens or pre-teens in their family knows!)—then we’ll have some sense of where to start looking to find the flaw. We might even stand a good chance of fixing the flaw and taking another crack at the problems of at-risk youth. How God works is ultimately a mystery. So we have to muddle along as best we can—and clear postulates can help us do that.

In Support of a Victims' Rights Constitutional Amendment

Laurence H. Tribe

Beginning with the premise that the Constitution should not be amended lightly and should never be amended to achieve short-term, partisan, or purely policy objectives, I would argue that a constitutional amendment is appropriate only when the goal involves (1) a needed change in government structure, or (2) a needed recognition of a basic human right where (a) the right is one that people widely agree deserves serious and permanent respect, (b) the right is one that is insufficiently protected under existing law, (c) the right is one that cannot be adequately protected through purely political action such as state or federal legislation and/or regulation, (d) the right is one whose inclusion in the U.S. Constitution would not distort or endanger basic principles of the separation of powers among the federal branches, or the division of powers between the national and state governments, and (e) the right would be judicially enforceable without creating open-ended or otherwise unacceptable funding obligations.

I believe that a properly drafted victims' rights amendment would meet these criteria. The rights in question—rights of crime victims not to be victimized yet again through the processes by which government bodies and officials prosecute, punish, and release the accused or convicted offender—are indisputably basic human rights against government, rights that any civilized system of justice would aspire to protect and strive never to violate. To protect these rights of victims does not entail constitutionalizing the rights of private citizens against other private citizens; for it is not the private citizen accused of crime by state or federal authorities who is the source of the violations

that victims' rights advocates hope to address with a constitutional amendment in this area. Rather, it is the government authorities themselves—those who pursue (or release) the accused or convicted criminal with insufficient attention to the concerns of the victim—who are sometimes guilty of the kinds of violations that a properly drawn amendment would prohibit.

Pursuing and punishing criminals makes little sense unless society does so in a manner that fully respects the rights of their victims to be accorded dignity and respect, to be treated fairly in all relevant proceedings, and to be assured a meaningful opportunity to observe, and take part in, all such proceedings. These are the very kinds of rights with which our Constitution is typically and properly concerned. Specifically, our Constitution's central concerns involve protecting the rights of individuals to participate in all those government processes that directly and immediately involve those individuals and affect their lives in some focused and particular way. Such rights include the right to vote on an equal basis whenever a matter is put to the electorate for resolution by voting; the right to be heard as a matter of procedural due process when government deprives one of life, liberty, or property; and various rights of the criminally accused to a speedy and public trial, with the assistance of counsel, and with various other participatory safeguards including the right to compulsory process and to confrontation of adverse witnesses. The parallel rights of victims to participate in these proceedings are no less basic, even though they find no parallel recognition in the explicit text of the U.S. Constitution.

Courts have sometimes recognized that the Constitution's failure to say anything explicit about the right of the victim or the victim's family to observe the trial of the accused should not be construed to deny the existence of such a right—provided, of course, that it can be respected consistent with the fair-trial rights of the accused. In *Richmond Newspapers v. Virginia*, 448 U.S. 555 (1980), for example, the plurality opinion, written by Chief Justice Burger, noted the way in which protecting the right of the press and the public to attend a criminal trial—even where, as in that case, the accused and the prosecution and the trial judge all preferred a closed proceeding—serves to protect not only random members of the public but those with a more specific interest in observing, and right to observe—

namely, the dead victim's close relatives. As Chief Justice Burger wrote, "Civilized societies withdraw both from the victim and the vigilante the enforcement of criminal laws, but they cannot erase from people's consciousness the fundamental, natural yearning to see justice done—or even the urge for retribution." (See 448 U.S. at 571.) Although the Sixth Amendment right to a public trial was held inapplicable in *Richmond Newspapers* on the basis that the Sixth Amendment secures that right only to the accused, and although the First Amendment right to free speech was thought by some (see, e.g., 448 U.S. at 604-06 (Rehnquist, J., dissenting)) to have no direct bearing in the absence of anything like government censorship, the plurality took note of the Ninth Amendment, whose reminder that the Constitution's enumeration of explicit rights is not to be deemed exclusive furnished an additional ground for the plurality's conclusion that the Constitution presupposed, even though it nowhere enumerated, a presumptive right of openness and participation in trial proceedings. Wrote Chief Justice Burger: "Madison's efforts, culminating in the Ninth Amendment, served to allay the fears of those who were concerned that expressing certain guarantees could be read as excluding others." (See 448 U.S. at 579-80 & n.15.)

I discuss *Richmond Newspapers* in some detail here not just because I argued that case but because it illustrates so forcefully the way in which victims' rights to observe and to participate, subject only to such exclusions and regulations as are genuinely essential to the protection of the rights of the accused, may be trampled upon in the course of law enforcement simply out of a concern with administrative convenience or out of an unthinking assumption that, because the Constitution nowhere refers to the rights of victims in so many words, such rights may and perhaps even should be ignored or at least downgraded. The happy coincidence that the rights of the victims in the *Richmond Newspapers* case overlapped with the First Amendment rights of the press prevented the victims in that case—the relatives of a hotel manager who had been found stabbed to death—from being altogether ignored on that occasion. But many victims have no such luck, and there appears to be a considerable body of evidence showing that, even where statutory or regulatory or judge-made rules exist to protect the participatory rights of victims, such rights often tend to be honored in the breach, *not* on the entirely understandable basis of a

particularized determination that affording the victim the specific right claimed would demonstrably violate some constitutional right of the accused or convicted offender, but on the very different basis of a barely-considered reflex that protecting a victim's rights would represent either a luxury we cannot afford or a compromise with an ignoble desire for vengeance.

As long as we do so in a manner that respects the separation and division of powers and does not invite judges to interfere with law enforcement resource allocation decisions properly belonging to the political branches, we should not hesitate to make explicit in our Constitution the premise that I believe is implicit in that document but that is unlikely to receive full and effective recognition unless it is brought to the fore and chiseled in constitutional stone—the premise that the processes for enforcing state and federal criminal law must, to the extent possible, be conducted in a manner that respects not only the rights of those accused of having committed a crime but also the rights of those they are accused of having victimized.

The fact that the states and Congress, within their respective jurisdictions, already have ample affirmative authority to enact rules protecting these rights is a reason for not including new *enabling* or *empowering* language in a constitutional amendment on this subject, but is not a reason for opposing an amendment altogether. For the problem with rules enacted in the absence of such a constitutional amendment is not that such rules, assuming they are enacted with care, would be struck down as falling outside the affirmative authority of the relevant jurisdiction. The problem, rather, is that such rules are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened.

Of course any new constitutional language in this area must be drafted so that the rights of victims will not become an excuse for running roughshod over the rights of the accused. Any constitutional amendment in this field must be written so that courts will retain ultimate responsibility for harmonizing, or balancing, the potentially conflicting rights of all participants in any given case. But assuring that this fine-tuning of conflicting rights remains a task for the judiciary

should not be too difficult. What is difficult, and perhaps impossible, is assuring that, under the existing system of rights and rules, the constitutional rights of victims—rights that the Framers of the Constitution undoubtedly assumed would receive fuller protection than has proven to be the case—will not instead receive short shrift.

To redress this imbalance, and to do so without distorting the Constitution's essential design, it may well be necessary to add a corrective amendment on this subject. Doing so would neither extend the Constitution to a purely policy issue, nor provide special benefits to a particular interest group, nor use the heavy artillery of constitutional amendment where a less radical solution is available. Nor would it put the Constitution to a merely symbolic use, or enlist it for some narrow or partisan purpose. It would instead, if the provision were properly drafted, help solve a distinct and significant gap in our existing legal system's arrangements for the protection of basic human rights against an important category of governmental abuse.

Self-Sacrifice, Self-Fulfillment, and Mutuality: The Evolution of Marriage

Don Browning

Our intensifying national debate about marriage and the “divorce culture” is also, at least implicitly, a debate about models of marital love. Do we have a right to demand that marital love yield a high degree of personal fulfillment? And do spouses, as a corollary, have a right to terminate a marriage that fails to produce such personal satisfaction? Or is such an expectation inimical to stable marriages? Should young people rather be taught that marital love entails continual self-sacrifice? The divorce culture is often blamed on the prevalence of the personal fulfillment emphasis, while some of the most powerful reactions against the divorce culture—the Promise Keepers movement is an example—seem to fall back on the traditional, self-sacrifice theme.

Based on a new opinion survey, one thing seems clear: couples today perceive themselves as practicing a style of marital love quite different from that of their parents. While contemporary couples tend to see their parents as having emphasized *self-sacrifice* in marital love, most describe themselves as practicing a form of marital love that puts a greater emphasis on *mutuality*. Whether this perceived shift from self-sacrifice to mutuality bodes good or ill for marriage remains unclear. What is clear is that today’s couples see themselves as approaching marital love in a different spirit from that of the past.

For our new book, *From Culture Wars to Common Ground: Religion and the American Family Debate*, my co-authors and I—Bonnie Miller McLemore, Pamela Couture, Bernie Lyon, and Robert Franklin—surveyed 1,019 Americans in cooperation with the George H. Gallup

International Institute. These men and women were asked about their marriages and how they defined love in a successful marriage. We gave them three different definitions of love to choose from: (1) the *self-sacrifice* option (love “means putting the needs and goals of your spouse and children ahead of your own”); (2) the *self-fulfillment* model (love “fulfills your personal needs and life goals”); and (3) the *mutuality* standard (love “means giving your spouse and children the same respect, affection, and help as you expect from them”).

A clear majority (55 percent) of Americans said that love in a good marriage is best characterized by mutuality. But, as can be seen in Table 1, our respondents perceived their parents as having approached marriage differently. When asked to characterize their mothers’ and fathers’ approach to marriage, less than 30 percent said their parents would have selected mutuality as the preferred style. Fifty-six percent thought their mothers would have selected self-sacrifice; 40 percent thought their fathers would have selected self-sacrifice, while 28 percent thought their fathers would have selected self-fulfillment.

Table 1.
Views on Models of Love Correlating
with Good Marriages

<i>Model of Love</i>	<i>Beliefs of</i>		
	Respondent	Mother*	Father*
Mutuality	55%	29%	28%
Self-Sacrifice	38%	56%	40%
Self-Fulfillment	5%	9%	28%

*That is, respondent’s perception of what would have been his or her mother’s and father’s beliefs

Conflict, Cohabitation, Religion, and Gender

One may note that very few (5 percent) of our respondents chose the “self-fulfillment” option as best. But when people were asked which model of love they followed when in an actual conflict with an

intimate partner, 13 percent chose the more individualistic view of love while only 45 percent chose mutuality and 28 percent self-sacrifice. People acknowledge, as one might expect, that in the heat of conflict they are more self-regarding than when considering relationships in the abstract.

There was one revealing exception to the overall pattern of the survey. Cohabiting, nonmarried respondents were far more inclined than married respondents to choose the self-fulfillment option, and far less inclined toward the self-sacrifice choice. Fifty-two percent of cohabiting individuals believed a good relationship correlates with mutuality, but only 17 percent believed self-sacrifice is important, while fully 21 percent were willing to say that love as self-fulfillment is best.

Overall scores in the survey varied somewhat according to age, education, income, marital status, religious experience, political convictions, and race. The young were slightly more inclined to emphasize mutuality and self-fulfillment than self-sacrifice. The more highly educated were also higher on mutuality.

There was also a somewhat predictable difference in emphasis between mainline and evangelical Protestant respondents. In situations of conflict with intimates, religious liberals were high on mutuality. Sixty-one percent of Episcopalians and 49 percent of Presbyterians (both mainline denominations) elected mutuality. Only 13 percent of Episcopalians elected self-sacrifice as did only 18 percent of Presbyterians. On the other hand, Southern Baptists (the largest evangelical denomination) were less likely to choose mutuality and more likely to choose self-sacrifice than either religious liberals or the population as a whole. Thirty-nine percent of Southern Baptists preferred self-sacrifice in the heat of conflict, in contrast to 28 percent for the population as a whole.

Finally, women were significantly more likely than men to define ideal marital love in terms of mutuality and significantly less likely to opt for self-sacrifice. Sixty-one percent of women chose mutuality, in comparison to only 48 percent of men. Conversely, 44 percent of males linked self-sacrifice with a good marriage while only 33 percent of females made that connection. Among African-Americans, the gender gap was even more pronounced. Seventy-six percent of black women

opted for mutuality, in contrast to a mere 33 percent of black men. Only 14 percent of black women saw self-sacrifice as ideal, in contrast with 48 percent of black men.

Turn Back the Clock?

What generalizations can we make about this data? While our data says nothing about how an earlier generation actually saw marriage, it does seem to show that today we perceive our model of marriage as changing—couples see themselves as emphasizing mutuality to a far greater degree than their parents did. To be sure, the preference for mutuality remains a function of gender (with women gravitating more to this definition than men), of income and education (with higher income and education individuals favoring mutuality more), and of political-religious orientation (mutuality is more popular among members of liberal, mainline religious denominations than among members of conservative evangelical ones).

Yet the growing consensus around mutuality suggests that efforts to beat back the divorce culture through a simple reassertion of older ideas of self-sacrifice may not meet with success in contemporary society. On the contrary, we seem to be in the process as a society of redefining our marriage culture with a new emphasis on mutuality. Although there is surely a place for self-sacrifice in marital love, it is best to conceive it as the extra effort needed to restore a relationship to mutuality.

The Promise Keepers movement might seem to represent an important exception to this trend. Their leadership stresses both traditional self-sacrifice and the role of the husband as the “spiritual leader” of the family—ideas that might seem to part ways with the contemporary emphasis on mutuality. Significantly, however, nine out of ten attendees surveyed at the Promise Keepers October Washington rally told pollsters from the *Washington Post* that “husbands and wives should ‘share equally’ in doing the housework, disciplining the children, and ‘making the big decisions.’” So even the members of this culturally conservative movement appear not unaffected by the move toward mutuality in the larger marriage culture. (This is true in spite of the persistent tendency of some leaders of Promise Keepers to designate men as the family member charged with the responsibility

of making final decisions about what constitutes mutuality and fairness.)

The primary lesson is that our marriage culture is evolving—something that in our policy discussion and cultural debate we need to acknowledge. The task of overcoming the divorce culture and building a more healthy marriage culture should not simply attempt to turn back the clock on our ideas of marriage, but rather should build constructively on the ideal of mutuality that has become so central to our contemporary understanding of the marriage bond.

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Manufacturing Jobs, Local Ownership, and the Social Health of Cities—A Research Note

Barry Castro

It is common knowledge that substantial *personal* costs are associated with declines in manufacturing employment—manufacturing workers who lose their jobs are often unable to compensate for that loss by finding comparable work in the service sector. But we also have a sense that there are *civic* and *social* costs that follow from the inability of these workers to reconstruct their lives—costs that may be compounded in their children, costs that may ripple through society for a long time. I will support this suspicion by reporting on a number of indices of social and civic well-being in cities where manufacturing work has remained available, and comparing these findings to the same indices in cities where large numbers of manufacturing jobs have been lost.

This note will also take a look at the social and civic implications of local ownership, or more specifically the difference between cities where business leadership is primarily locally based and cities where the business leadership answers to corporate headquarters located elsewhere.

The cities chosen for this study had populations between 150,000 and 250,000. Only the 33 cities that were not part of the metropolitan area of a larger city were studied. Defining our sample in this way makes it possible to avoid having to deal with the substantial impact of differences in scale. There is no question that big cities have proportionately higher indices of social breakdown than small ones. I sought to control for that variable rather than study it.

The Importance of Jobs (and the Irrelevance of Race)

The cities that had most rapidly lost manufacturing jobs between 1963 and 1990 (Dayton, Ohio; Springfield and Worcester, Massachusetts; Providence, Rhode Island; Rochester, New York; Chattanooga, Tennessee; Mobile, Alabama; and Tacoma, Washington) had much higher rates of violent crime than the cities that had most rapidly gained such jobs (Orlando, Florida; Huntsville and Montgomery, Alabama; Modesto, California; Lexington, Kentucky; Shreveport, Louisiana; Salt Lake City, Utah; and Lincoln, Nebraska).

This difference in the rate of violent crime, 19.67 per thousand as compared to 8.23 per thousand (a ratio of 2.39: 1), was of recent origin. In 1975, when manufacturing job losses were substantial but much deeper losses were yet to come, the former group had a rate of violent crime of 8.228 per thousand, as compared to 5.088 per thousand in the latter group (a ratio of 1.62: 1). And in 1960, the cities that were to lose particularly large numbers of manufacturing jobs in the next 30 years actually had lower rates of violent crime than the cities to which I compared them, 1.081 per thousand as compared to 1.745 per thousand (a ratio of 0.62:1). Thus, over 30 years, the rate of violent crime increased almost four times as quickly in the cities that had most rapidly lost manufacturing jobs.

There were also a greater number of single-parent families in the cities that had lost manufacturing jobs. The number of single-parent families was 63.0% of the number of two-parent families in the cities in the bottom quartile in manufacturing job retention. That number was 36.1% in those cities that had done best in increasing the availability of manufacturing jobs (almost a 75% higher proportion in the high job-loss cities). And again the difference between the two groups of cities increased over time. In 1980, the proportion of single-parent families in the cities that had lost manufacturing jobs was 33.3% as compared to 23.2% in the cities that had not (a proportion a bit lower than 50% higher in the high job-loss cities). Unfortunately, census data on the local incidence of single parent families is not available earlier than 1980.

High school drop out rates are another index of social breakdown. In 1990, those rates were 12% higher in the cities that had lost manufacturing jobs. Homelessness, still another index of social break-

down, was estimated to be 14.3% greater in the cities that had lost manufacturing jobs in the most recent year available, 1989.

Race is correlated with both the incidence of single-parent families and the incidence of violent crime, two indices of social breakdown. It is thus worth noting that the proportion of blacks in the cities that had lost manufacturing jobs and suffered the associated social breakdown was only 21.3%, while the proportion of blacks in the cities that had best retained manufacturing jobs was 26.4%. Those are very critical numbers. The numbers reveal greater social breakdown in those cities with smaller black populations. Whatever else this may mean, and I think that is well worth inquiring into, it is clear that the differences in social breakdown are not explained by race.

Local Ownership's Multiple Impacts

Simply put, local ownership matters. The cities in my sample with the highest indices of local ownership (Fort Wayne, Indiana; Grand Rapids, Michigan; Jackson, Mississippi; Spokane, Washington; Raleigh, North Carolina; Lubbock, Texas; Chattanooga, and Modesto) had a more than 50% higher rate of foundation giving than the cities with the lowest indices of local ownership (Columbus, Georgia; Little Rock, Arkansas; Mobile, Montgomery, Lincoln, Tacoma, Worcester, and Shreveport). The per capita United Way contributions of the cities with a high rate of local ownership were more than a third higher. These cities had a per capita response to Goodwill almost twice as high as the low local ownership cities, and a response to Second Harvest, in terms of pounds of food distributed per person in poverty, that was over 40% higher. Habitat for Humanity affiliates built almost three times the number of homes in the high local ownership cities than were built in the low local ownership cities (353 as compared to 130).

Perhaps surprisingly, the cities high in local ownership did not maintain manufacturing employment anymore than the cities low in local ownership: local ownership does not forestall the move from manufacturing to the service sector. Thus differences between these two sets of cities cannot be explained by a greater number of manufacturing jobs.

Nonetheless, the cities high in local ownership had more than 30% lower rates of violent crime and 11.6% fewer families without hus-

bands present. There is, in short, a good deal of reason to believe that both retention of manufacturing jobs and high degrees of local ownership independently mitigate social breakdown, the former significantly more strongly than the latter.

It should, of course, also be clear that the indices I have relied on reflect a great deal of general social breakdown since 1960—breakdown quite independent of changes in manufacturing employment or local ownership. My purpose here is to suggest that within the context of that general breakdown, strong relative differences exist, and that these seem to be strongly influenced by the retention of manufacturing jobs and the extent of local ownership.

A Shrinking Share of the Burden

Corporate taxes accounted for about 13 percent of total IRS collections for 1996. That was down from 24 percent in 1960.

The Wall Street Journal, 13 August 1997

COMMUNITY ACTION

In a Crooked Mirror: America's Changing Views on Fertility

BOB EDWARDS (Host): Stephen Smith of Minnesota Public Radio reports that throughout American history society has blamed the infertile, especially infertile women, for their condition.

STEPHEN SMITH (Reporter): Colonial Americans took seriously the biblical mandate to increase and multiply. The reasons were religious, but also practical. Many children died at birth or infancy and new hands were always needed to work the house and farm.

Of those who could not bear children, puritan preachers offered two opinions. Hardliners, such as Boston's Cotton Mather, darkly warned that being barren meant God had cast a judgment upon you. In one sermon, Mather wrote:

READER: "Without your faith in Christ, no good fruit is to be expected from you, nor do I expect any good fruit lest you come to a union with your lord redeemer."

ELAINE TYLER MAY: Childlessness brought an air of suspicion on someone in the colonial period.

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SMITH: Historian Elaine Tyler May has studied infertility in American culture. May says that the colonists often feared that the actions of one could bring God's wrath upon the many. Barrenness was a sign.

MAY: If a couple was childless, generally the woman was considered to blame. It's interesting to note that those people who were accused of witchcraft were much more likely to be childless.

SMITH: Other clergymen counseled a less pessimistic view. According to historian Margaret Marsh, they considered infertility a test of faith imposed by God.

MARGARET MARSH: For some of them, they said, the lord may choose not to give you children because he has a different purpose in mind for you.

SMITH: To pass God's test, infertile couples had to demonstrate their selflessness.

MAY: One way you could do that was by being a parent in the community, by fostering other children, caring for other children, doing good works, doing charity work.

SMITH: Childless couples often took in the children of widows or poor families. After his father died, John Hancock, that flamboyant signatory to the Declaration of Independence, was raised by a wealthy childless uncle and aunt as their own son.

For hundreds of years, Americans possessed the murkiest notions of what causes infertility. Until well into the 20th century, society considered it almost exclusively a woman's problem. That was certainly true for the father of our country.

At George Washington's Virginia plantation, Mount Vernon, the white children who capered about the house and gardens were Martha Washington's children by a previous marriage. General Washington treated his stepkids like blood kin, but he and Martha never produced children of their own. Historians say that on at least two occasions, George battled illnesses that could have left him infertile. But in a letter to his nephew, the president made clear he thought Martha the barren one, even though she had conceived four previous times.

READER: "If Mrs. Washington should survive me, there is a moral certainty of my dying without issue."

SMITH: Meaning, he wasn't the type to fool around.

READER: "And should I be the longest lived, the matter, in my opinion, is almost as certain. For whilst I retain the reasoning faculties, I shall never marry a girl. And it is not probable that I should have children by a woman of an age suitable to my own."

MAY: He simply assumed that she was infertile. And it never occurred to him that he might have been. The assumption was that if a man was not impotent, that he was fertile.

SMITH: In the early 1800s, physicians began treating infertility as a medical condition and called it sterility instead of barrenness. They still did not fully understand how human reproduction works. Doctors believed that infertility was caused by bodily imbalances, prescribing elixirs and dietary schemes to regulate the female constitution.

By mid-century, doctors specializing in the emerging field of gynecology focused on surgical treatments. One prominent New York City doctor operated on scores of women to enlarge their cervical openings, believing a wider passageway to the uterus would expedite the flow of sperm to egg. The doctor never proved that these painful experiments produced actual pregnancies.

Where colonial women stood accused of lacking religious conviction, infertile women in the Victorian era were suspected of ignoring their proper domestic roles. At the time, physicians considered the female body a delicate vessel, easily damaged by unchecked social exertion or stress. One Harvard physician wrote a book arguing that education was spreading sterility by manufacturing women with monstrous brains and puny bodies.

READER: "The reproductive machinery, to be well made, must be carefully managed. Force must be allowed to flow thither in an ample stream and not diverted to the brain by the school."

SMITH: Historian Margaret Marsh says the 19th-century impulse to shield women in the safety of the home was part of a larger trend in American society away from the big, extended, utilitarian families of the colonial era.

MARSH: A new idea arose about what the family meant. The family became more privatized. Women became more responsible for what went on in the family. Children became the purpose of family life, especially middle and upper middle class family life, in a way that they hadn't been before.

SMITH: In 1861, a prominent Southern society lady named Mary Chestnut had been married for two decades, but at age 38 still had no children. Chestnut agonized in her diary over the scorn she felt from her aristocratic and domineering in-laws.

READER: "Women have such a contempt for a childless wife. Mrs. Chestnut was bragging to me one day with exquisite taste, to me, a childless wretch, of her 27 grandchildren. And Colonel Chestnut, a man who rarely wounds me, said to her, 'you have not been a useless woman in this world.'"

SMITH: At the turn of the 20th century, white Americans grew increasingly anxious about what they perceived as an infertility crisis in their neighborhoods. The birthrate among middle class whites was at an all-time low, in part because couples were choosing to have fewer children. President Theodore Roosevelt warned that immigrants and minorities were too fertile and that Anglo-Saxons were in danger of committing "race suicide" by not keeping up baby for baby.

READER: "The chief of blessings for any nation is that it shall leave its seed to inherit the land. The greatest of all curses is sterility. And the severest of all condemnations should be that visited upon willful sterility."

SMITH: As the 20th century unfolded, medical science made big advances in understanding infertility. Researchers discovered the hormones that regulate reproduction. They recognized that low sperm counts and poor sperm quality in men are a significant cause of infertility. And in the last 20 years, in vitro fertilization, egg and sperm donation, and other high-tech procedures have revolutionized the field.

A condition that colonial Americans saw as a spiritual failing, suburban Americans now regard as a scientific hurdle. Yet, stigmas persist. In studying the history of infertility, Elaine Tyler May heard

from many infertile couples who today sense a hint of the same suspicions visited on childless puritans more than 300 years ago.

MAY: They said, my life is really fine without children, but I feel like I should have children because I wouldn't be perceived as a responsible, full adult if I didn't have them.

SMITH: To be a real American, Maysays, you still have to be somebody's parent.

THE COMMUNITY BOOKSHELF

Beyond Hope?

Michael Zank

Jonathan Sacks, *The Politics of Hope* (London: Jonathan Cape, 1997). 288 pp.

Hope as “a sure and steadfast anchor of the soul” (Hebrews 6:19) is a core concept of religious faith and thus an important aspect of the religious ideal of the perfect human being. What is more, hope is the foundation of any community that is founded on a glorious future still to be revealed, rather than on the miserable present. This aspect of the monotheistic traditions found a universal application in some of the political philosophies of the European Enlightenment of the 18th century. The philosopher Immanuel Kant once gave a popular definition of philosophy in which he defined it as the pursuit of answers to the questions “What can we know?” “What should we do?” and “What may we hope?” Here hope is on a par with knowledge and morality; one might even say that without hope, the pursuit of truth and goodness would be meaningless, lacking energy and momentum.

In the 20th century, the Marxist philosopher Ernst Bloch made hope the “principle” of an atheistically conceived “theology” of human aspirations for a better life. In Bloch’s “socialism with a human face,” art, religion, philosophy, and history all testify to the exuberant quality of hope as the driving impulse behind all our efforts to improve ourselves and the world around us. Here hope is the principle of a

better future which is known to all, always elusive, yet never too remote to strive for.

Jonathan Sacks's book *The Politics of Hope* presents a "third way" that is meant to end the false alternative between the political philosophies currently regnant: liberalism and libertarianism. Sacks reminds us of the failures of both to deliver to a majority in our societies the equity and dignity promised by the modern constitutional state. Our recent attempts to apply freedom and autonomy as universal principles to politics failed because of a common error, namely the assumption that societies are primarily made up of states and individuals. This assumption holds true whether one believes in a minimalist state and maximal room for the individual (libertarianism), or maximal involvement of government in the affairs of individuals, an involvement meant to achieve universal equity (liberalism). Sacks aims not only to uncover the roots of a fundamental misconstrual of the human situation in the modern state, but also to present an alternative. Instead of the "politics of collectivism" or the "politics of private initiative," Sacks suggests what he calls the "politics of hope."

A Partial Picture

Sacks bases the possibility for such a "politics of hope" on a sociological observation that is neither new nor original. According to this observation, societies are not made up merely of states and individuals but, rather, entail what some philosophers have called "mediating institutions," namely families, communities, religious societies, neighborhoods, etc. Sacks's "politics of hope" pleads for renewed and concerted attention to the resources and responsibilities of communities in the process of the formation of societies. Instead of relegating matters of morality to the discretion of the individual, and instead of lamenting the failure of the state to generate a plausible structure in which individuals can thrive, Sacks calls upon us to turn our attention to the role of communities in what is most needed for the creation of a good society: "a vigorous process of public debate" and "some consensus about the kind of society we wish to create."

Sacks believes that the common "erosion of trust" and the often lamented "general loss of faith in the power of government" can be countered by a cultivation of "involvement" on the communal level

fostering an experience of individual dignity based on values other than material “wealth or success.” In these preliminary statements we discern the religious hope and experience the author brings to his book and to the program it espouses. Sacks writes as the Chief Rabbi of Great Britain, uniting within himself many voices: he is the descendent of immigrants to a country that offered them refuge; the leader of a particular community within British society; and a scholar who, as in previous writings, shows a sustained interest in determining the religious legitimacy and civic usefulness of multiculturalism in a modern democratic society. Finally, Sacks also speaks as an individual member of a state who, like Rousseau in Geneva, gives reasoned expression to his concerns about threats to our liberal societies. Hence, while written by a Jew and a rabbi, *The Politics of Hope* is not primarily a Jewish or even a religious book, but a treatise written to appeal to other responsible citizens. At the same time, as the book appeals to the reading public with its thesis of hope, it also illustrates that meaningful contributions to a new discourse should come out of a culture of involvement in mediating institutions.

Aiming for the plausibility rather than originality of the “third way” between liberalism and libertarianism, Sacks first draws a picture of contemporary Western culture based both on popular media and on anecdotal evidence from the work of the Chief Rabbi himself (part one, “Starting a Conversation”). Having shown the need for a new discourse on values, Sacks proceeds by arguing (from the well-trodden ground of modern political theory and history) that the problems we experience today have grown out of modern constitutional ideas and the attempt to put them into practice (part two, “Social Covenant”). Part three, “The Good Society,” explores the various societal dimensions of the new “politics of hope,” ranging from communitarian theory to the practical matters of education and the family.

In the second part of the book, Sacks reduces Western history to a two-part narrative, summarizing it as follows:

Great truths bring good in their own domain and harm when they stray beyond it. Religion, the great truth about man’s search for meaning, trespassed during the Middle Ages into two realms not its own: factual knowledge and political power. The result was ignorance and persecution. That was

why the Enlightenment was necessary. Liberalism, the great truth about coexistence in diversity, trespassed during the twentieth century into a neighboring field, morality, the great truth about living together in trust, and it too brought harm: broken families, abandoned children, the 'new barbarism' of postmodernity. Extending beyond its scope, it threatened to destroy its own foundations. That is the tale of the two stories. (p. 132)

What is missing in this summary of the course of modernization, and throughout the book, are references to some or all of the following important aspects of modernization: the romanticization of nation and Christian values in 19th-century literature and politics; nationalism and colonialism as possible corollaries of republicanism; and the phenomenon of fascism and its exploitation of antiliberal rhetoric. A convincing argument for a political agenda such as the one presented by Sacks needs to demonstrate mindfulness with respect to these three aspects of modern history. Otherwise we cannot but suspect that the shortcomings of liberalism do not begin to outweigh those of its alternatives.

Perhaps we must remind ourselves again that the alleged causes of the current culture of entitlement and consumption—welfare and the moral revolutions of the 1960s—were triggered by the discontent generated by the very institutions Sacks and others wish to restore (the churches, the courts of law with their personnel, the universities, and so on) and in whose restoration they see the source of healing for our societies. Institutions, however, that failed to prevent two world wars, a cold war, the nuclear threat, and vicarious wars in the Far East, cannot and should not be trusted naively. At the very least, Sacks should have considered the moral factor involved in movements of protest over the past 30 years. Nor is it evident that the new urban poverty and the deterioration of education should be blamed on the disenfranchised and their advocates rather than on the effects of economic liberalization (Thatcherism and Reaganomics). The argument that blames the poor for their poverty remains as callous as ever no matter who advances it or how often it is repeated.

Sacks laments the current state of Western societies (crime, unemployment, the growing gap between rich and poor, the crisis of education, the decline of the middle class), a lament which is by now a *cantus firmus* in many media. Sacks's analysis of the causes of this

state of affairs does not consider the possibility that the decline of virtues might be rooted less in rampant libertarianism but in much more concrete developments that cannot be reduced to philosophical principles. For example, as far as I know (and as Sacks knows as well, to wit chapter 21) the masses of English or German workers at the end of the 19th century were neither baptized nor married and gave rise to at least as much lament then as do the urban poor now. Our American perspective might be warped because we have grown up with the rhetoric of the 1950s, which excelled in suburban virtues but did not lead to moral conduct vis-a-vis the cultural other: the Negro and the Jew. What this example may show is that just as mediating institutions are important to consider from the perspective of growing into moral and responsible citizens, so too do micro-contexts need to be considered from the perspective of who is currently gaining more access, which group is falling apart where, and what might be the local factors both of the deterioration and of the proper remedy.

My most important critique of Sacks's analysis of the contemporary situation and its causes, then, would be that he does to that crisis what he charges liberal philosophers have done to morality. He globalizes the idea of mediating institutions as a one-size-fits-all solution to a problem whose outlines are likewise so global that it leaves us without incentive for actual change. "Hope"—if hopelessness is the problem—must be concrete and particular, rather than global, in order to edify or persuade.

Searching for Models

What about the main idea of the book, namely that "hope" for the moral fabric of liberal democratic societies can spring only from a recultivation of particular communities that are not constituted contractually but by a "covenant," and that are, therefore, by nature not liberal (without being antiliberal)? "Moralities," says Sacks, "have a home." Ethos, the abode of human beings, is located by Sacks in particular communities. In contrast to the politically useful fiction of liberal theory that concerns itself merely with individuals and states, humans are first and foremost members of families, religious communities, and other intermediate institutions. These groups, large and small, impose rules and virtues upon the individual and shape his or her ability to communicate with the representatives of other particular

communities. (The state, on the other hand—the being-together of a number of diverse communities—encourages the development of virtues necessary for the promotion of peaceful competition among particular communities—e.g., tolerance, coexistence, civility.) The “good society” needs healthy and flourishing families and communities. Nobody in their right mind would deny that. The question is how to repair broken families, restore credibility to traditions of faith, and establish communities conducive to fostering civility and responsibility.

Sacks suggests that all we need is to rediscover (in secular terms, of course) what the rabbis of the second through sixth centuries of the Common Era knew when they shouldered the task of reconstructing Jewish life after the destruction of the Jewish state. While states without external enemies can collapse from within if their moral fabric is rotten, civil societies that are based on functioning families, education, and mutual solidarity can survive for millennia even without the existence of a state. However persuasive the analogy may be, it does not address the fact that Judaism (both in the diaspora and in the State of Israel) is as implicated in the crisis of modernity as any other Western culture. It has as yet to prove its remarkable longevity to be based on resources that can withstand the onslaught of intermarriage and the civic conflicts raging in the Jewish state. In other words, the exemplarity of Judaism—its usefulness as a model for modern civil societies—is questionable.

Sacks explores a number of areas that continue to evoke in us an immediate sense that, here, we are dealing with institutions worth our efforts to preserve and cultivate, institutions such as family, tradition, friendship, and civility in public discourse. He argues for a political culture aiming for an Aristotelian “balance” between extremes rather than radical solutions; for a culture of mutual respect, responsibility, and dialogue, all of which are non-contentious values. The next to the last chapter (“Can It Be Done?”) reveals that Sacks offers us a conservative version of Ernst Bloch’s conviction that historical events and traditions contain elements of unrealized hope from which we can gain encouragement. In Sacks’s case, the elements of hope can be garnered from a reassessment of some of the basic values of Victorian societies, namely the values of “character,” “self-reliance,” and taking initiative in voluntary associations that promote philanthropy.

In the final chapter, Sacks reiterates that the “ground of hope” is the continued validity and utility of the “Judeo-Christian” tradition, which can still be retrieved as a source of inspiration for our communal effort to build a civil society. It remains unclear, however, how the renewal of “moral energy” can be achieved if one positions oneself outside the sources of Sacks’s confidence, that is, Jewish survival as well as the Jewish and Christian traditions.

We had a million man march. We had a million woman march. How about a million family march?

LIBERTARIANS, AUTHORITARIANS, COMMUNITARIANS

From the Libertarian Side

The Right of Arousal

The Honorable Stanley Sporkin, a district judge in Washington, D.C., recently ruled in favor of a group of federal prison inmates suing for their right to view *Penthouse* and *Playboy* magazines. The prisoners, along with the publishers of *Penthouse* and *Playboy*, argued that a recent federal law prohibiting the distribution to prisoners of “any commercially published information or material” that is “sexually explicit or features nudity” was unconstitutional under the First Amendment.

For many years, however, courts have ruled that convicted felons lose some of their rights. In fact, the new law is simply an amendment to an older and previously undisputed set of regulations that grant federal prison wardens the right to ban materials deemed “detrimental to the security, good order or discipline” of a prison. (Whether or not *Playboy* et al. actually does harm remains to be seen.)

In arguing for the prisoners and publishers, the ACLU called the new amendment “congressional meddling.” In contrast, an editorial in the *Arkansas Democrat-Gazette* points out that the amendment really did not infringe on the First Amendment rights of either party: “The law does not infringe on the prisoner’s own right to speak, or to write. It doesn’t deny the right of *Playboy* and *Penthouse* to publish.... The new provision would seem only to make that old, and unchallenged, regulation more specific.”

Enforcing the “Walk” in Sidewalk

In 1994, concerned about pedestrians having to dodge homeless people lying and sitting on busy sidewalks in commercial areas, and the possible decline businesses might experience as a result of residents and visitors not wanting to shop in these areas, Seattle city officials enacted a “sidewalk ordinance” that prohibited sitting or lying on commercial sidewalks on weekdays between 7 a.m. and 9 p.m. The ACLU argued against the ordinance in federal district court, and later in Washington’s Ninth Circuit Court of Appeals, claiming that lying or sitting on a sidewalk is a right protected by the First Amendment. In both courts, the ordinance was upheld.

In cities across the country, the ACLU has argued that other such constitutionally protected rights also include confronting people, asking for change, and screaming in public places. Rob Teir, general counsel of the Center for Community Interest, is concerned not only that the ACLU is opposing measures cities have taken to “improve the quality of urban life for their residents and visitors,” but also that it is actually hurting the cause of those they seek to help:

By confusing issues of poverty and homelessness, the ACLU promotes the belief that poor people urinate and defecate in public, empty trash cans, harangue people while asking for money and scream at demons only they can see...by merging the two in the public’s mind, the ACLU has undermined thoughtful efforts to help poor people.... Although they may not realize it yet, the ACLU may be the most influential force behind the country’s suburbanization and privatization movements.

The ACLU argued most recently against Seattle’s “sidewalk ordinance” in the state’s highest court—the Washington Court of Appeals. The court also upheld the ordinance.

From the Authoritarian Side

When Asked, Don't Tell

Wendy Weaver, a psychology teacher and volleyball coach for 17 years at Spanish Fork High School in Utah, was dismissed from her coaching job in July 1997 without explanation when school officials learned that she is a lesbian. Throughout her tenure at Spanish Fork High School, Ms. Weaver received positive reviews from her peers and supervisors, and many parents and former students say they regard her as a role model. Ms. Weaver also led her volleyball team to four state championships. A day after she lost her coaching job, Ms. Weaver received a memo from school district officials stating that she was “not to make comments, announcements, or statements to students, staff members, or parents of students regarding your homosexual orientation or lifestyle.”

Ms. Weaver's sexual orientation came to light when her ex-husband, from whom she was divorced in April 1997, mentioned to acquaintances that she was a lesbian. Ms. Weaver had told one student of her sexual orientation when asked directly by the student during a phone call in July 1997. (She was calling team members to ask them to participate in a volleyball camp.) Ms. Weaver had never otherwise discussed nor mentioned her sexual orientation to students, parents, or school officials. Nonetheless, Almon Mosher, the district's human resources director, told the *St. Louis Post-Dispatch*, “We expect our teachers to teach curriculum. We don't expect them to bring personal matters into the classroom.”

From the Community

Well, It Is Jury Duty

In Los Angeles County last year, only six percent of the three million eligible residents who were sent notices to serve jury duty actually served. Gloria Gomez, manager of jury services for the Los Angeles County Superior Court system, says her office receives an

average of 50,000 letters a week from people asking to be excused from jury duty.

As Ms. Gomez tells *The Wall Street Journal*, excuses have included having to take care of a pet poodle in heat for fear that a “mongrel” would get at her, having to care for a diabetic dog, and being followed by martians. One woman asked to be excused because she felt she was too beautiful to serve on a jury and feared she would be “ravished” on her way into the courtroom. Some people write “deceased” across their names and return the notice to serve, while others simply do not respond.

As a result, Los Angeles County developed a pilot program to weed out false excuses and crack down on those who claim to be dead or ignore their notices. The program uses collection agencies to find the worst violators, threatens to levy a maximum \$1,500 fine on those who do not respond to notices, and demands a death certificate for all those claiming to be deceased as an excuse not to serve jury duty. The program also includes a more stringent policy about work-related excuses. Essentially, the question a potential juror must answer is “Would your company shut down if you weren’t there?”

The non-response rate of potential jurors is now 20 percent, down from 50 percent three years ago.

Enforcing Responsibility

Frustrated by overcrowding in New York City’s prison system, and eager to find a way to more productively treat drug offenders brought to court, attorney Valerie Raine put her own legal defense career on hold to start the Brooklyn Treatment Court in June 1997—the first of its kind in New York City. By offering offenders the option of pleading guilty instead of standing trial and serving a term in prison (without treating the offender’s addiction), drug treatment courts offer a less expensive, and more effective, alternative to serving time in jail.

If accused drug offenders plead guilty to the charges against them, they may enter the treatment program set up by the court. Judge Jo Ann Ferdinand, who presides over the Brooklyn Treatment Court, keeps close watch over those who enter treatment: she maintains a

database in her chambers that keeps detailed records of all the offenders who have come before her, the offenses they committed, and every time they have failed a drug test or missed a court appointment. For failed tests and missed appointments she levies penalties ranging from spending a day in a jury box (to see what penalties other offenders face) to spending 24 hours in jail.

Because the Brooklyn Treatment Court is only six months old, and treatment usually takes up to two years, no one has yet completed the program. But its 82 percent retention rate is “dramatically higher” than the rate of voluntary treatment programs, *The New York Times* reports. The court can now only accept for treatment half of the defendants arrested in Brooklyn, but it is expected to become the largest in the country after receiving grants totalling \$6.5 million, awarded by the Center for Substance Abuse Treatment and the Justice Department.

The primary complaint about the Brooklyn Treatment Court is that it is coercive, “pressuring” defendants into pleading guilty. But founder Valerie Raine says that “the other systems have not worked for anybody, not for the client nor the community,” and participants are grateful for the program. “If it wasn’t for this...court and the judge, I’d be locked up or prostituting,” said Bonnie Hussey, who has been in treatment for six months.

Cleaning Up at the (River) Bank

For 90 years, Bubbly Creek and its surrounding area in Chicago’s Bridgeport neighborhood were used as a dump for packing houses and industrial wastes. The creek’s name was derived from the large bubbles that would break the surface of the water, which was covered by a thick layer of fat from animal carcasses being dumped in it. *Hope* magazine reports that now, thanks to a program developed by Andrew Hart of the Chicago Youth Centers Fellowship House, a grant from the Urban Resources Partnership in Chicago, and the work of a group of teenagers, the Bubbly Creek area is being turned into a park.

When developing the program, Hart wanted economically disadvantaged teenagers to become invested in their community by “reclaiming” it; he also wanted to teach the value of work and offer the teenagers a modest wage. In 1995, he met with a group of teenagers

who took him to the creek; they decided together that cleaning up the creek area would be a good project.

Every summer since, ten teenagers have been selected from a pool of about fifty applicants to be “River Rats”—a name chosen by the first group of teens to work on the river. Each working 30 hours a week at \$5 an hour, the River Rats have removed more than five tons of garbage from Bubbly Creek and its banks. They have built a park bench, bird houses, and grass terraces around the creek’s banks, and have also started clearing trails that will run through the new park. With these improvements, humans and fish alike have begun to return to the river.

Nora Pollock

“Resentful Serfs” or Good Citizens?

“If no force may be used against a non-criminal, then the current system of compulsory jury duty must also be abolished. Just as conscription is a form of slavery, so too is compulsory jury duty. Precisely because being a juror is so important a service, the service must not be filled by resentful serfs.”

Murray N. Rothbard, The Ethics of Liberty

SOCIAL SCIENCE UPDATE: CHILDREN

Children have been the focus of several recent social science investigations. Numerous reports detail specific ways in which parents, schools, neighborhoods, and volunteer organizations can protect youths from negative or self-destructive behaviors. Following are summaries of these reports.

The Specifics of Parental Influence

While it is obvious that parents are of primary importance in influencing children's development, recent studies have revealed *specific* parental characteristics that foster positive behaviors and the overall well-being of children. Children who feel loved, wanted, and cared for by their parents are less likely than their less-connected peers to engage in risky behaviors, including smoking cigarettes, drinking alcohol, using illegal substances, committing violence, and becoming sexually active. In addition, when parents hold high expectations for their children's academic achievement, the children are less likely to experience emotional distress (feeling depressed, lonely, sad, fearful, moody, or crying or having a poor appetite). And "[f]eeling connected to parents and family significantly protects both younger and older adolescents from thinking about or attempting suicide."

Additional preliminary results from the National Longitudinal Study on Health (centered at the University of North Carolina at Chapel Hill), which surveyed over 90,000 adolescents in grades seven through twelve, established that parents' presence at "key times" ("at waking, after school, at dinner, and at bedtime") are protective against

emotional distress in adolescents. Greater parental presence in the home correlates with less adolescent use of cigarettes and marijuana. Researchers also report that “[f]amilies can protect their adolescents from the use of substances by making cigarettes, alcohol, or marijuana less accessible. Like guns, when cigarettes, alcohol, or marijuana are out of the reach of adolescents, teens are less likely to use them. And if they do use any of these substances, they will do so less frequently than those who have access to them at home.” Overall, researchers conclude, “[t]ime and time again, the home environment emerges as central in shaping health outcomes for American youth.”

Schools and Neighborhoods: The Second Keys

The National Longitudinal Study also found that school connectedness, or feeling cared about and paid attention to by teachers, is second only to family connectedness in discouraging risky behavior among adolescents. High levels of school connectedness are associated with lower levels of emotional distress, less frequent cigarette, alcohol, and marijuana use, and some delay in becoming sexually active.

Public opinion holds that achieving “connectedness” is not the only way schools can promote healthy behavior. A study by the organization Public Agenda found that “the public overwhelmingly believes schools should teach values along with academics.” Though schools cannot replace parents, they can supplement and reinforce parents’ teachings. Eighty-three percent of respondents in a 1997 survey of 2000 adults believe schools should teach values and behavioral standards that include being responsible, punctual, and disciplined. Approximately three-quarters of those surveyed assert that schools should teach the value of hard work (78 percent) and believe that honesty and tolerance of others are key values that schools should emphasize (74 percent).

Schools and parents are not the only potential sources of values and discipline for children. Other adults, such as neighbors, may play an important role as well. But Public Agenda found that when parents fail to provide discipline, they seem to resent neighbors and colleagues stepping in. Respondents concurred that parents “don’t appreciate suggestions about—let alone criticism of—their children. Sensing that

parents resent anything that might be interpreted as interference, people are wary of interfering in someone else's business."

This wariness can have a negative impact on more than just children. According to an August 1997 report in *Science*, a willingness to discipline neighbors' children is a mark of neighborhood cohesiveness. Rates of violent crime are lower in neighborhoods that strive to achieve public order through such informal social means. "Examples of informal social control include the monitoring of spontaneous play groups among children, a willingness to intervene to prevent acts such as truancy and street-corner 'hanging' by teenage peer groups, and the confrontation of persons who are exploiting or disturbing public space," researchers reported.

Volunteer Organizations: Another Piece of the Puzzle

Teenage girls who participated in a national volunteer outreach program through their schools were less likely to get pregnant than those who did not. Only 4.2 percent of those who entered the volunteer program became pregnant; more than twice as many (9.8 percent) in the control group became pregnant. Researchers, who published their results in the August 1997 issue of *Child Development*, suggest that these girls are less likely to get pregnant because their work for others helps them conceptualize themselves as autonomous and capable individuals. The resulting self-respect enables these girls to avoid poor decision making that might lead to an early pregnancy. The volunteer opportunities aid youths in "establishing their competence and autonomy in a context that maintains their sense of relatedness with important adults. It provides an opportunity to be viewed in a positive role by program facilitators, adults at volunteer sites, and by other youths, while also reflecting about future roles as a competent, autonomous adult."

Schools in the study also provided time for classroom discussions of students' volunteer service experiences, in which facilitators helped students "prepare for and make plans about their service experiences (including dealing with a lack of self-confidence, social skills, assertiveness, self-discipline, and so on), think about what they...experienced while volunteering, and hear others do the same.... In covering these topics, facilitators encouraged students to discuss

their feelings and attitudes about important developmental issues (e.g., managing family relationships, new academic and employment challenges, handling close friendships and romantic relationships, and so on).”

The teens—both male and female—who participated in the outreach program “experienced significantly lower levels of course failure, school suspension and teenage pregnancy than students in the control group.” While 26.6 percent of volunteer outreach students did not pass a course during the volunteer period, 46.8 percent of control group students failed a course during the same time. Control group students were suspended from school twice as often as the volunteer students (28.7 percent versus 13 percent, respectively). Overall, the study concluded, “feeling safe, listened to, and respected were linked to positive student outcomes.”

Barbara Fusco

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COMMUNITY NEWS

WHEN AMATEURS ARE BETTER THAN PROFESSIONALS

When it got some new funds, the Lyndale neighborhood of South Minneapolis could simply have hired more social workers, put more cops on the beat, and called on other professionals to try to solve some of its problems. Instead, the neighborhood of 7,000 invested a hunk of government cash in volunteerism, and officials say the strategy has paid off handsomely. Using nearly \$1 million from a city bond scheme to help urban districts, the local community association has mobilized more than 750 community volunteers to perform essential tasks such as nighttime neighborhood patrols of streets, afterschool programs, and regular community events and fund-raisers.

“There’s probably an argument that professionals could perform some of the things we do better than volunteers,” said Joseph Barisonzi, executive coordinator of the Lyndale Neighborhood Association, which used the city grant to train and equip local residents to do the work. “But our goal is to reinforce the community aspect of what we do. If we have four of our residents who didn’t previously know each other patrolling the streets together, chatting and learning about each other, then that’s a valuable community activity.”

In four years, Lyndale has seen a 45 percent decrease in crime (including a two-thirds drop in violent crime), a drop from 20 drug houses to just one, and \$26 million of new public and private investment, according to city figures.

The neighborhood association itself is very small, with a few staff people and a volunteer consulting team that helps with specialized tasks such as grant writing and program coordination. Still, in addition to the steady core of volunteers, the intensive effort has involved more than 2,000 of the neighborhood's 3,000 children in such programs as tending a farm and working during the summer at the farmers' market, according to Barisonzi.

"We're playing the role of a small town. We're trying to bring everybody together. We're trying to make sure we're getting done what we need to get done by drawing on the neighborhood's own resources," said Barisonzi, whose efforts recently earned him one of ten annual awards given out by Do Something, a national civic organization.

American News Service

Well, Children Don't Bite (Usually)

Labor Secretary Alexis Herman says that according to the government's Directory of Occupation Titles, dog-catching requires more training and skills than child care. She ordered a revision of the directory.

The Wall Street Journal, 4 November 1997

COMMENTARY

Assisted Suicide: Evidence in Our Backyard

Herbert Hendin (Fall 1997) uses the example of the Netherlands to make his argument against physician-assisted suicide. Unfortunately, he needn't have looked that far to support his case.

Physicians are already having concerns about their ability to follow the law. According to a study in the *New England Journal of Medicine*, half of Oregon physicians doubt that they can judge when a patient has fewer than six months to live; but such a determination is required under the law. In addition, 94 percent of Oregon psychiatrists do not think that they could declare someone seeking assisted suicide competent based on just a single evaluation.

Concerns involving physician judgment are not the only ones that have been raised. *U.S. News and World Report* told of Dr. Nancy Boutin, a radiation oncologist who at first supported the law. She was then confronted with the case of an elderly woman dying of ovarian cancer. The patient's HMO resisted filling Dr. Boutin's expensive prescriptions for antinausea drugs. Had the patient had the option, she would have chosen assisted suicide, Dr. Boutin concluded, "not because she wanted to be dead but because her symptoms were so bad."

Dr. Boutin also expressed concern about situations involving friends and relatives who care for a dying loved one for an extended period of time. What happens when these well-meaning caregivers simply become drained, both physically and emotionally? Might they

subtly (and likely inadvertently) pressure the patient to choose an accelerated death?

While advocates of assisted suicide like to speak of the “right to die,” the philosopher Michael Walzer has brought some other thoughts to this discussion. Walzer has written of “another right that men and women hold: not to be killed, or pressed to kill themselves, or quietly hustled off in any way before their time.” If this issue is a case of “rights” versus “rights,” an approach of which I am personally skeptical, surely the rights that Walzer speaks of hold trump.

Vincent Jones
Long Island, New York

Libertarianism and License

I appreciate Alan Wolfe's thoughtful consideration (Fall 1997) of my book *Libertarianism: A Primer*, along with Charles Murray's *What It Means to Be a Libertarian*. He offers some interesting contrasts between the two books. But sometimes I am not sure he is reviewing the book I wrote.

Take his claim that I "emphasize that freedom and order sometimes work at cross purposes." One could hardly disagree that they sometimes do, but what I actually *emphasized* is when they do *not* work at cross purposes. I drew on the long libertarian tradition of "spontaneous order," which arises from the actions of free individuals. Introducing the idea in chapter 1, I wrote:

A great degree of order in society is necessary for individuals to survive and flourish. It's easy to assume that order must be imposed by a central authority, the way we impose order on a stamp collection or a football team. The great insight of libertarian social analysis is that order in society arises spontaneously, out of the actions of thousands or millions of individuals who coordinate their actions with those of others in order to achieve their purposes. Over human history, we have gradually opted for more freedom and yet managed to develop a complex society with intricate organization. The most important institutions in human society—language, law, money, and markets—all developed spontaneously, without central direction.

Similarly, Wolfe writes, "If you want to use your freedom to have kids out of wedlock, smoke pot, or defame the American flag, that, in his view, is your business." Well, yes, in a sense. But I do not think that line does justice to the argument I made about the importance of moral values to a free society and the ways that government undermines them. I stressed that the libertarian conception of individual rights rests on the notion that each person is a moral agent, responsible for his own actions. I stressed the importance of the family and other mediating and character-building institutions and deplore the way government impinges on their authority. I wrote, "Libertarianism is not libertinism or hedonism. It is not a claim that 'people can do anything they want to, and nobody else can say anything.' Rather, libertarianism proposes a society of liberty under law, in which individuals are

free to pursue their own lives so long as they respect the equal rights of others.”

Wolfe implies that I think values are all relative. In fact, I discussed at great length the problem of moral character, and I would like to quote the book at some length here:

Expansive government destroys more than institutions and charitable contributions; it also undermines the moral character necessary to both civil society and liberty under law. The “bourgeois virtues” of work, thrift, sobriety, prudence, fidelity, self-reliance, and a concern for one’s reputation developed and endured because they are the virtues necessary for advancement in a world where food and shelter must be produced and people are responsible for their own flourishing. Government can’t do much to instill those virtues in people, but it can do much to undermine them. As David Frum writes in *Dead Right*,

Why be thrifty when your old age and health care are provided for, no matter how profligately you acted in your youth? Why be prudent when the state insures your bank deposits, replaces your flooded-out house, buys all the wheat you can grow, and rescues you when you stray into a foreign battle zone? Why be diligent when half your earnings are taken from you and given to the idle? Why be sober when the taxpayers run clinics to cure you of your drug habit as soon as it no longer amuses you?

Frum sums up government’s impact on individual character as “the emancipation of the individual from the restrictions imposed on it by limited resources, or religious dread, or community disapproval, or the risk of disease or personal catastrophe.” Now one might suppose that the very aim of libertarianism is the emancipation of the individual, and so it is—but the emancipation of the individual from artificial, coercive restraints on his actions. Libertarians never suggested that people be “emancipated” from the reality of the world, from the obligation to pay one’s own way and to take responsibility for the consequences of one’s own actions. As a moral matter, individuals must be free to make their own decisions and to succeed or fail according to their own choices. As a practical matter, as Frum points out, when we shield people from the consequences of their actions we get a society characterized not by thrift, sobriety, diligence, self-reliance, and prudence but by profligacy, intemperance, indolence, dependency, and indifference to consequences.

I submit that Wolfe's flippant line misrepresents what my book said about freedom, moral character, and social order. In fact, I stressed the connection between responsibility and freedom: We should be free because we are responsible moral agents, and we should be held responsible for the consequences of our freely chosen actions. If you want to use drugs or have children out of wedlock, "that is your business" indeed—but you must take moral responsibility for the results.

I hope that the continuing dialogue between libertarians and communitarians will rest on a full and honest presentation of each viewpoint.

David Boaz
Author of *Libertarianism: A Primer*

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