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War and Sacrifice in Kosovo

The most striking ethical issue to arise in the aftermath of the Kosovo intervention is whether the extraordinary asymmetry of risk that characterized the NATO deployment—NATO forces were destroying and killing without themselves suffering losses—is morally defensible. The appearance of riskless war is profoundly disturbing to many, not because they believe it to be inherently wrong, but because they do not know how to think about it at all. Our moral intuitions were formed when war was a confrontation of armies on a battlefield; these intuitions may no longer be reliable sources for evaluating military conduct. Was mutual risk simply an unavoidable fact of war in the past or is mutual risk a morally compelling requirement of a just war?

While the military deployment was still under way, questions about the morality of a policy of riskless warfare were framed in terms of its tactical consequences. The policy meant, for example, that the use of ground troops was ruled out. Many critics believed that without ground troops, or at least a credible threat of their use, an air campaign could not succeed. Others argued that an air campaign conducted with pilot safety as the first concern would at worst hit unintended targets, and at best take such a long time to be effective that the Serbs would have ample opportunity to accomplish their policy of ethnic cleansing.

At this point, it is hard to know how effective the air campaign was on its own terms, how much the outcome of the war turned on diplomacy—particularly

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Russian pressure on the Serbs—or how critical was the decision to extend the air campaign to civilian targets in Serbia proper (especially the electrical grid). Nevertheless, the wartime critics' tactical concerns seem to have been substantially misdirected. It is hard to believe, for example, that NATO could have mounted a ground campaign more quickly, that such a campaign would have caused less collateral damage, or that it would have led to a military outcome more advantageous than the withdrawal of the Serbian army and the return of refugees that we have seen.

The question of the morality of riskless warfare, however, persists quite independently of the debate over tactics. Indeed, the moral puzzle of riskless warfare is oddly proportional to the success of the intervention. If the intervention had not been successful, it would be easy to agree with the critics that the failure to assume risks was a failure to adopt military means commensurate with the morally compelling task of preventing atrocity. The real puzzle is why we should continue to have any qualms even if the military intervention is judged to be a success.

A Matter of Chivalry?

Every state wants to minimize its own losses when it commits itself to the use of force. There is nothing new in this. NATO policy, however, seems to have crossed from a goal of minimizing losses to a qualitatively different goal of no losses at all. That the war lasted for several months, and included some 35,000 sorties, without the loss of a single NATO serviceman from hostile activity tells us that this ambition may have become reality.

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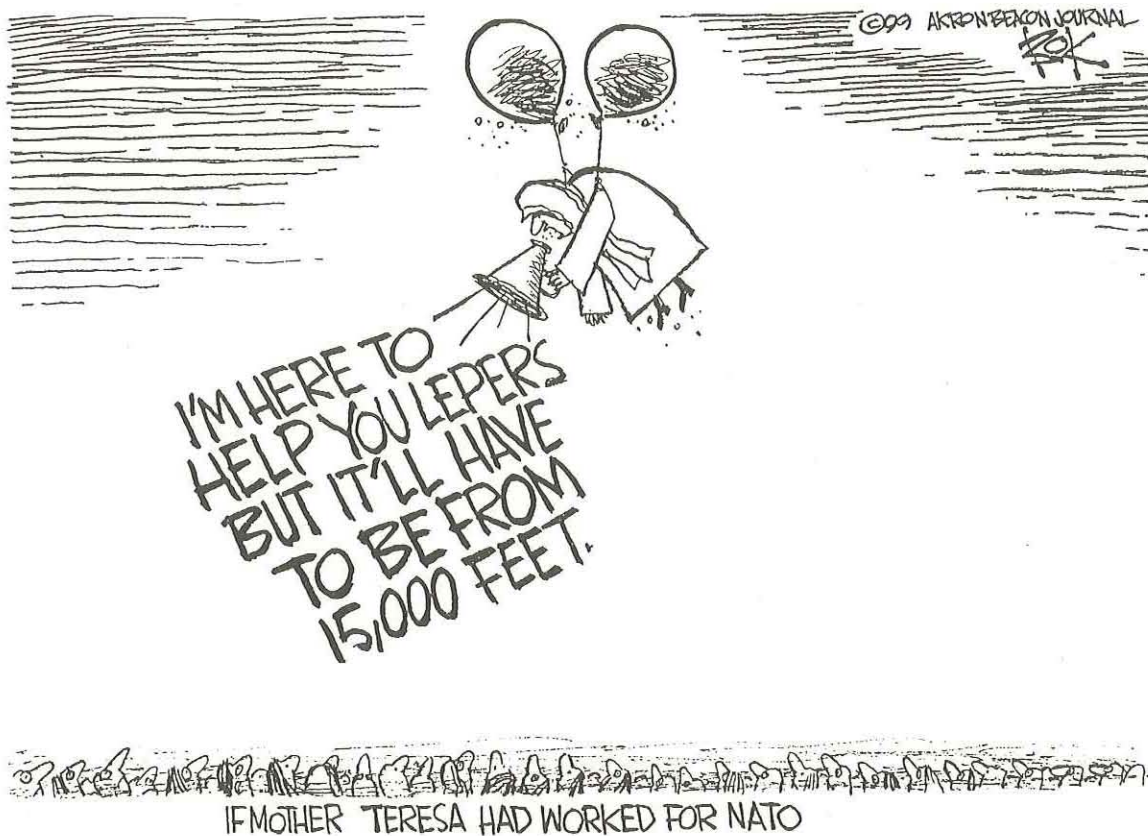
That riskless warfare even raises a moral puzzle may seem, at first, no more than a lingering cultural remnant of a world in which battle was governed by rules of chivalry—a romantic ideal that has been out of touch with actual combat for most of this century. Conventional warfare has become a confrontation of mechanical means, in which combatants rarely see directly the targets of their actions. It is no longer far-fetched to imagine military conflicts waged by small groups of high-tech warriors who select targets, push buttons, and are home for dinner. Though some commentators object to the "sanitizing" of war—leading, they warn, to moral callousness and a disregard for humanitarian norms—their worries may seem like vestiges of an ethos that has been decisively displaced.

Recent experience suggests, moreover, that personal confrontation may itself exacerbate a tendency toward atrocity. Within Kosovo, a war *was* waged at the direct, person-to-person level: the campaign of ethnic cleansing by the Serbs. But it was hardly the case that chivalry retained a place in this context—just the opposite. The worst examples we have of genocide and ethnic cleansing in the past decade—Rwanda, Bosnia, and Kosovo—all share the element of direct personal confrontation between the violator and his victim.

This double failure of the chivalrous ideal reflects a deeper moral asymmetry in the conduct of war today. One hundred years ago, war was still considered a legal means of contesting or advancing the interests of the state. That meant that each party to a conflict could confront the other on morally neutral terms. If war was "politics by other means," then there was no necessity that combatants view their opponents as the enemies of mankind or as tainted by the immorality of their ends. A morally neutral battlefield also meant that third parties did not have to take sides. Today, the international use of force is prohibited under the United Nations Charter. Increasingly, this prohibition on the use of force is thought to apply to many internal conflicts as well. We do not approach these military conflicts from the perspective of neutrality, but rather with the understanding that there is a legal and illegal, a good and bad. Chivalry lacks a foundation in such a moral universe, because it suggests that a code of personal honor may link combatants to each other over and above the difference in the ends for which they fight.

Today, illegal wars tend to be fought by illegal means. When the decision to use force already amounts to a violation of a fundamental norm of international law, it is unlikely that an aggressor's choice of tactics will be constrained by international law. Earlier in this century, the opposite concern seemed no less urgent: that countries fighting for legal ends, particularly self-defense, might put those ends at risk were they to *comply* with the rules of war. The refusal to accept such a risk led, for example, to the threat to use weapons of mass destruction rather than accept defeat. In all of this, the importance of the end—whether legal or illegal—seems to overwhelm the legal regulation of the means.

A policy of riskless intervention indicates a similar refusal to allow the means of warfare to generate moral norms apart from the ends. Now, however, the reasoning is that if our end is virtuous, there can be no justification for suffering "unnecessarily" in its pursuit. In a confrontation between good and evil, why should the good suffer?



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War as Police Action

If chivalry is dead, and we are confident in our ability to identify unjust situations perpetrated by men who deserve to be stopped, what sort of moral position could require us to sacrifice more, rather than fewer, of our own combatants? If our end is to stop the ethnic cleansing in Kosovo, then are we not morally better off if we can manage to do so without the risk of injury to ourselves? Why should the innocent suffer to stop the guilty? From this perspective, there seems to be a moral imperative to develop forms of warfare that would allow us to do just this: to punish and deter the unjust without risk to the innocent, whether our own soldiers or civilian victims. If we could completely differentiate the guilty from the innocent, injuring only the former, would we not have perfected, or even transformed, the moral basis of war?

Indeed, in modern international law, "war" is not a term that is used. Instead, the illegal use of force is characterized as "aggression" and the response is "self-defense." In Kosovo, NATO was not at war, but rather was pursuing "humanitarian intervention" in response to violations of human rights law. International actions responding to illegal use of force are "police actions." If the idea of a morally neutral war conducted under a code of chivalry is a thing of the past, and modern wars are best thought of as police actions, then perhaps we should substitute our

moral intuitions about police forces for those about armies at war. Michael Walzer has suggested this in analogizing intervention in response to human rights violations to firefighters seeking to put out a fire.

Walzer's point is that we expect firefighters to take risks to save others. One cannot be a good firefighter or policeman if one thinks of saving oneself before helping others. We expect those responsible for public safety to take risks proportionate to their ends. Yet, we would not be troubled if they could accomplish their ends without risk to themselves. We don't believe that there is a moral problem with a police force that manages to respond effectively to particular crimes without exposing its own members to risk of death or injury—unless that end is accomplished by subjecting the offenders to some disproportionate use of force. If this is the appropriate analogy, then there is nothing morally troubling about riskless warfare unless it is unsuccessful or disproportionately destructive.

The moral argument in favor of elimination of risk to the innocent can even go one step further. The entire calculation of whether and when to deploy force must be recast if we can wage war without risk. What possible grounds are there not to deploy force to stop gross injustice if the cost to us can be measured in dollars, not lives? In an age of international human rights, do we not have an obligation to intervene to vindicate and protect those rights? While the issue of whether we can

ask the innocent to sacrifice their own lives to save others is morally complex, and appropriately leads to a presumption against intervention, the presumption would seem to run just the other way when there is no real risk of death or injury attached to the intervention.

If we view the NATO campaign, then, from the perspective of the intervening states, it is hard to identify a convincing set of reasons that could support the moral intuition that there is something problematic about riskless warfare. Nevertheless, there remains something disturbing in the picture of the United States responding to the next Kosovo by simply sending in cruise missiles to hit targets selected through satellite surveillance.

Morality in the Message

Warfare is not subject to a straightforward cost-benefit analysis. A community's decision to resort to force is not merely about changing the behavior of others, but about the moral character of the deciding community as well. Decisions to use force communicate messages about the community and about its views of others. In any given instance, then, we have to ask what message is being conveyed by a decision to deploy force in a particular manner. This concern with the communicative aspect of the use of force is independent of the actual consequences—the effectiveness—of that use. The traditional rules of warfare did not make warfare any less dangerous, but compliance with, or violation of, those rules conveyed certain messages. The Serbs understood this when they violated the human rights of the Kosovars. There are numerous ways to encourage massive emigration; their way sent a particular message.

The morality of the risk-free use of force is not a matter of chivalrous conduct among combatants, but of the moral meaning of assuming, or failing to assume, particular risks in specific contexts. In part, what is so troubling in the Kosovo situation is the message that was sent by the endless reports of actions taken or not taken on the grounds that the risks to NATO personnel were too high. NATO focused the attack for many weeks on air defenses; its planes operated from great height; it would not risk pilots in refugee relief operations; and President Clinton announced from the beginning that there would be no ground intervention.

Wholly apart from tactical and strategic issues concerning the effectiveness of the military decisions, the moral message is this: the lives of NATO personnel are of greater value than the lives of those who might benefit from these interventions. This message is morally troubling precisely because it undermines the purported justification for the NATO operation. A humanitarian intervention, justified by appeals to universal standards of human rights, represents a commitment to a vision of

the fundamental equality of all persons. This means recognition of their right to life and respect for their distinct communities. These ideals are denied by the policy of waging riskless war. The contradiction is there as soon as the policy is announced, even if it were to turn out that in the particular case the means adopted were as effective as could reasonably be expected.

We suspect that if the people on the ground had been citizens of NATO countries, we would not have heard that a pilot could not attack Serbian troops because the risk *to himself* was too great. Rather, we would have heard of the sacrifice demanded of and made by a pilot

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to save others because the risk *to them* was too great. A riskless war, even a successful one, is stripped of opportunities for moral heroism. Ironically, that heroism stands on a stronger ground of democratic equality than does the conduct of a war limited by the concern that casualties might disturb public opinion.

Riskless warfare in pursuit of human rights is, therefore, actually a moral contradiction. If the decision to intervene is morally compelling, it cannot be conditioned on political considerations that assume an asymmetrical valuing of human life. This contradiction will be felt more and more as we move into an era that is simultaneously characterized by a global legal and moral order, on the one hand, and the continuing presence of nation-states, on the other. What are the conditions under which states will be willing to commit their forces to advance international standards, when their own interests are not threatened? Riskless warfare by the state in pursuit of global values may be a perfect expression of this structural contradiction within which we find ourselves.

In part, then, our uneasiness about a policy of riskless intervention in Kosovo arises out of an incompatibility between the morality of the ends, which are universal, and the morality of the means, which seem to privilege a particular community. There was talk during the campaign of a crude moral-military calculus in which the life of one NATO combatant was thought to be equivalent to the lives of 20,000 Kosovars. Such talk meant that even those who supported the intervention could not know the depth of our commitment to overcoming humanitarian disasters. Is it conditioned upon the absence of risk to our own troops? If so, are such interventions merely *moral* disasters—like that in Somalia—waiting to happen? If the Serbs had discovered a way to inflict real costs, would there have been an abandonment of the Kosovars?

We can't know whether a failure of the policy of avoiding risk would have led to a deeper commitment or to withdrawal. However, the very fact that the question was inevitably raised by the policy creates a perception of inequality. A willingness to sacrifice offers a form of moral assurance, an assurance that one is serious about the ends and willing to pursue those ends within a single calculus in which the lives of Kosovars count at least on the same scale, if not exactly the same amount, as the lives of NATO troops.

Risk and Democratic Legitimacy

The policy of riskless intervention may be the cost for popular support of military intervention when national interests are not threatened. But there is also a worry that popular support here is really only popular indifference. Without casualties, or the threat of casualties, the democratic process may not engage the issue very much at all.

Many fear the moral quality of the political judgments of the leadership of the West, and of the leadership of the United States in particular. It has not been that long since we pursued secret military interventions in Central America, which were profoundly offensive to human rights norms. Secrecy in those interventions played much the same political role that risklessness plays today. Both dampen political debate by suppressing the public prominence of a use of force. A political leadership that must justify in democratic debate a policy of sacrifice is likely to be disciplined by the force of public opinion.

The puzzle today is whether such discipline is a good thing. The more we trust our political leadership, the more willing we may be to accept less public debate for the sake of advancing a human rights agenda. Public opinion may make the leadership more cautious than it would otherwise be. Caution in the pursuit of human rights is not necessarily a virtue. The Kosovo experience showed us that there can be genuine conflicts between the domestic legitimacy that arises from popular approval of political action and the moral imperative of international human rights. An executive branch that is serious about the latter may have to be satisfied with less of the former. President Clinton appears to have made such a trade-off in his policies on Kosovo. The same dynamic was visible in Russia, but working in the opposite direction: a more democratic government there may have found itself even more committed to supporting the Serbs.

For many, however, the source of concern is not an absence of American intervention, but rather the threat of unilateral intervention by the sole remaining superpower. Riskless warfare may be too easy politically. It may give too much power to an executive

operating without the political legitimacy that comes from real popular support.

Policemen of the World

Alongside these worries about the message sent, the depth of the commitment, and political legitimacy, there lies a final moral complexity. We inevitably ask by what right our nation interferes in the affairs of other nations. Not just isolationists, but those genuinely concerned for others, are troubled by the widely expressed challenge: "Who made us the policemen of the world? These are not our fights, so why should we presume to determine their outcomes?" Our uneasiness about riskless intervention arises, in part, from the difficulties associated with justifying intervention of any kind.

Surely the mere existence of universal human rights norms does not in itself set the standard for permissible intervention, either as a matter of law or of morality. Just at this point the analogy to a domestic police force breaks down. On the international level, there are

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competing moral claims between the universal demands of human rights and each community's right to shape its own history. This competition does not exist within a single community under law. Claims that a new global community governed by human rights law has emerged over and above nation-states seem wildly exaggerated when precisely what the world lacks is a police force willing to enforce these norms. NATO members, including the United States, certainly have not expressed a willingness to take on this role generally: they did not act in Rwanda and resisted action in Bosnia.

This tension between the national and the global is especially acute when the intervening party uses military force without the approval of that institution—the United Nations Security Council—with primary responsibility to keep international peace. NATO may have been responding to violations of international law, but it was not authorized to act by the only global institutions that we have. Russia and China publicly took the position that the NATO intervention was illegal. Kosovo was not Serbia against the world, but Serbia against NATO.

This is the same kind of asymmetry that many find disturbing in Spain's recent legal action against former Chilean president Augusto Pinochet. Pinochet

may indeed have violated universal standards of human rights, but still he is a special problem for the Chilean community to resolve. The fact of his violations may not be enough to justify judicial intervention by Spain, which has so little at stake in dealing with this ex-dictator.

Americans, in particular, stand on a complex history of self-determination, in which we have not been without moral fault but in which we have insisted on working out these faults by and for ourselves. Terrible as the Civil War was, I do not think that many Americans believe we would have been better off had some third party intervened to right our wrongs. We have not always respected a similar right of nonintervention by other states, but this has only subjected us to the charge of hypocrisy.

Sharing a History

Without taking up the complexities of this conflict between the universal morality of human rights and the moral claim to community autonomy, I want to suggest that this conflict helps explain why the possibility of riskless war is profoundly troubling. After a century of genocide, we know that there are limits to a country's right not to be interfered with: at a certain point, intervention becomes morally compelling. But a willingness to sacrifice, on the part of those who would intervene, is critical in reaching that point.

When we announce that we are willing to sacrifice for others with whom we have no bond other than a common understanding of justice, we intervene not as a moral enforcer but as a participant. We now make the oppression of others a part of our own history; the injustices that might have seemed distant become injustices against ourselves. We come to share a common history with the victims and together form a new community.

It is true that in acting to protect the Kosovars, we certainly seem like third-party interveners to the Serbs. We are not a part of *their* community, so why are we there? But the Serbs do not have a right to define the boundaries of the community against which they are acting. They cannot stop others from saying that they too are Kosovars.

Communities do not come with predetermined boundaries. States, for example, divide or join together as peoples come to see themselves differently. The peoples of the former Yugoslavia should know this better than anyone. When we are willing to sacrifice on the field of battle, we actively remake the boundaries of communities. The expansion of the moral community of identification is at the foundation of justified intervention.

This is not to say that a nation declaring its moral identification with others is always entitled to intervene on their behalf. We can be, and often have been, wrong in our decisions to use force; our willingness to take risks does not in itself prove that we have intervened on the deserving side. So there is an inescapable need for moral judgment. The problem is that moral judgment is not enough. We do not have a license to intervene whenever we think one side in a conflict is right and the other is wrong.

The appeal to a community of identification as a rationale for intervention clearly places a substantial burden on the victim community, on those for whom we intervene. Their behavior must be such that it can sustain a sense of cross-cultural identification, of membership in a common community. When the victims take advantage of the intervention to carry out symmetrical violations against their enemies, they undermine this identification. The reaction of other states will rightly be moral disengagement, a sense that this is not our fight, nor should it be. We may be entering this stage in the Kosovo saga.

Standing with the Kosovars is not the same as standing on a claim to enforce universal human rights. Because we are not willing to intervene in countless places around the world in which individuals suffer injustices as great as those in Kosovo, the latter claim inevitably looks hypocritical. But the former claim is not subject to the same charge of hypocrisy. Identifying with the suffering of others and acting on their behalf is not an all-or-nothing proposition. Yet, by insisting that its intervention would only proceed in a riskless fashion, NATO placed in doubt even this more limited justification. It suggested that the pursuit of human rights may be a modern version of Clausewitz's vision of war itself: the pursuit of national policy by other means.

Riskless war seems to be without costs, but it is only at the cost of sacrifice that we build a community, of whatever extent. Outside of our own community, the right to intervene, even in a good cause, is never clear.

—Paul W. Kahn

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Academic Standards and the NCAA

In March, a federal court in Philadelphia enjoined the National Collegiate Athletic Association (NCAA) from enforcing Proposition 16, its rule for determining whether a high school student athlete can be recruited by Division I colleges and universities. Under Proposition 16, a high school graduate with a 2.0 GPA in core academic subjects becomes a "full qualifier" by scoring 1010 on the SAT. If his GPA is as high as 2.5, he can qualify with a score of 820 on the SAT. (A student can offer comparable ACT scores as well.) As a full qualifier, he is eligible to receive an athletic scholarship and immediately play a varsity sport. A high school graduate can score as low as 720 on the SAT and still

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become a "partial qualifier" if the sum of his test score and GPA is at least as high as that of a full qualifier. In other words, he can partially compensate for a below-minimum test score by a very good GPA. As a partial qualifier, he is eligible to receive an athletic scholarship but not to play during his freshman year. Any high school student who fails to satisfy one of these two conditions can enter a Division I institution only as a paying, regular student.

When Proposition 16's predecessor, Proposition 48, took effect in 1986, it drew protests from black coaches, who deemed it unfair to minority athletes. When Proposition 48 was replaced by the slightly more rigorous Proposition 16 ten years later, black coaches were so incensed that they toyed with the idea of boycotting NCAA events. The gravamen of their complaint: the use of the SAT cut-off score, which blacks fail to reach in markedly higher proportions than whites. John Thompson, then-coach of Georgetown University's basketball team, complained that poor minority kids were at a disadvantage taking the "mainstream-oriented" SAT. "Certain kids," he noted just after the federal court's decision, "require individual assessment. Some

urban schools cater to poor kids, low-income kids, black and white. To put everybody on the same playing field [i.e., to treat them the same in testing] is just crazy." John Chaney, Temple's basketball coach and another early critic of Proposition 16, offered a similar postmortem in an editorial for the *New York Times*. Proposition 16, he insisted, had excluded students who could make it in college. He referred to one of his own players, Rasheed Brokenborough, who was raised in a poor part of Philadelphia and scored too low on the SAT to be even a partial qualifier.

That meant we could not provide him with any scholarship money, much as he needed it, during his freshman year, and he had to accumulate 24 credits or face expulsion. Rasheed was a serious student and finished his course work in four years plus summer school. . . . He is now doing student teaching in a Philadelphia school. He is also deeply in debt. He was punished for a crime he did not commit.

Proposition 16 eliminated too many Rasheed Brokenboroughs, in Chaney's view, and most of them were black. In 1997, 21.4 percent of black prospective athletes failed to achieve eligibility, in contrast to 4.2 percent of whites. Thus, in the words of the Black Coaches Association, "minority and low-income student athletes, academically qualified as measured by their classroom performance," have borne the brunt of a misguided effort to set academic standards. Let a student's grade-point average suffice for admission and participation, the black coaches insist.

Why not let grades suffice? Few colleges or universities do. They seldom forgo standardized tests altogether and rely entirely on grades for admissions decisions, and for good reason. High school grading practices and academic standards vary considerably. The same numerical GPA possessed by different students may signal quite different academic capabilities (or liabilities). Thus, an uncontextualized GPA may or may not show students to be "academically qualified as measured by their classroom performance." Colleges use the SAT (and similar exams) to provide an objective counterweight to grades. Although on average the high school GPA is a fair predictor of a student's academic success in college, a student's GPA combined with her SAT score provides an even better predictor.

John Thompson proposes individualized decision making, since an SAT score may not reflect a student's full potential. Look at each applicant case by case, he suggests. But where thousands of applicants are involved, individualized assessment may be impracticable. Moreover, why, on average, would we expect individualized assessment to produce different admissions outcomes? Unless institutions of higher education give up predicting how well students will fare once admitted, GPAs and SAT scores will continue to loom large in admissions decisions, for whatever their weaknesses as predictors, they prove far superior to student essays, teacher recommendations, extracurricular activities, socioeconomic background, and the like.

Thompson and Chaney focus on the "false negatives" generated by the SAT minimum cut-off. Because the cut-off score is not a perfect predictor of academic performance (indeed, it is very crude), it will sometimes exclude as incapable students who, as in the story of Rasheed Brokenborough, actually would succeed in college. By themselves, however, such stories, though credible and touching, are not dispositive. False negatives will be a problem for *any* standard of selection. There will always be the special individual who could succeed despite every sign to the contrary. Some high school graduates who score below 720 on the SAT (a truly low score, and the limit for even partial qualification) may nevertheless pass their college courses. And it is no less possible that some students with a high school GPA of 1.6 may survive the rigors of college. A GPA minimum cut-off of 2.0 creates false negatives just as does an SAT cut-off score of 720. To evaluate any selection system, we have to ask two questions: (i) is the minimum cut-off reasonable in light of the system's goals? and (ii) does the minimum cut-off produce false negatives out of proportion to its prevention of false positives? That is to say, does the cut-off, in successfully screening out students who wouldn't succeed in school, erroneously screen out too many who would? The story of Rasheed Brokenborough doesn't answer these questions. Unfortunately, the legal case, *Cureton v. NCAA*, doesn't answer them, either.

The Case

The core narrative in *Cureton* is simple enough. Tai Kwan Cureton and two other students denied full eligibility by Proposition 16 sued the NCAA under Title VI of the Civil Rights Act of 1964, a title that forbids institutions who receive federal funds from discriminating on the basis of race. The judge determined that the NCAA fell under the scope of the title.

Current Title VI case law establishes a two-part test of discrimination. Any practice by a covered institution is discriminatory if (a) it creates an adverse dis-

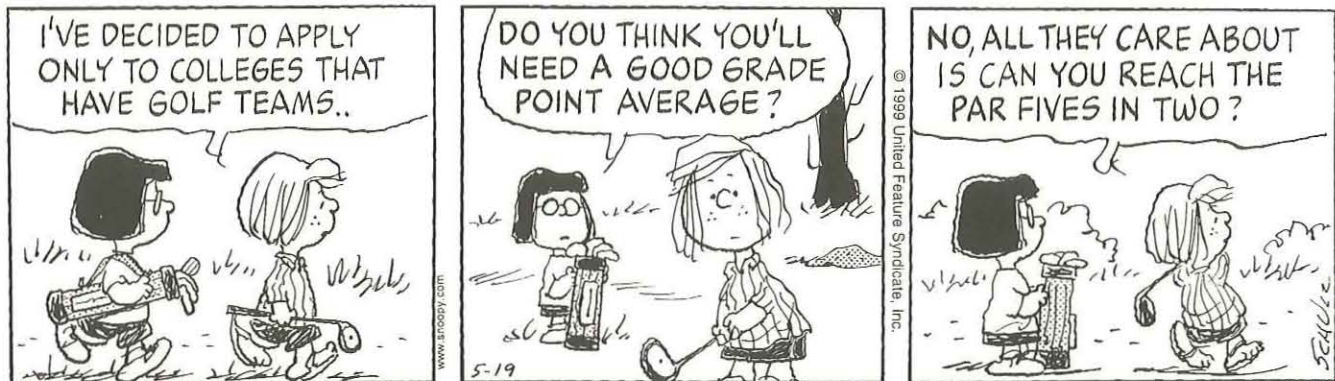
proportionate impact on blacks and (b) it is not justified by "educational necessity." The second conjunct of the test itself divides into two. "Educational necessity" is established when (c) the challenged practice is shown to bear a "manifest relationship" to a legitimate educational goal and (d) no other practice producing less disproportionate impact serves the goal equally well. In Title VI litigation, the burden of proof moves backwards and forwards. First, the burden lies with the plaintiff to show that the defendant's practice produces disproportionate impact. When that burden is met, the defendant must then show that the challenged

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practice bears a "manifest relationship" to a legitimate goal. If such a showing is made, the burden returns to the plaintiff to offer evidence of alternatives that can serve the goal as well as the challenged practice without generating the same adverse impact.

The judge's decision in *Cureton* tracks this formula. The plaintiffs established "disparate impact," in his opinion, by showing that of those African American students who requested eligibility-certification in 1996 and 1997, 26.6 percent and 21.4 percent, respectively, were denied it. The comparable denial rate of white requests was 6.4 and 4.2 percent. Turning, then, to the defense of this disproportionate effect, the judge observed that the NCAA justified Proposition 16 as a device "designed to discourage the recruitment of athletically talented, but academically unprepared students," using graduation rates as a proxy measure of its success in achieving this goal. The NCAA further argued that the graduation rate for student athletes has, indeed, increased since Proposition 16 was put in place. Finally, the NCAA contended that using the 820 SAT score as a minimum for full eligibility bears a "manifest relationship" to raising graduation rates for student athletes. Its own research, it insisted, shows that SAT scores plus GPAs predict academic performance and graduation rates.

The judge conceded to the NCAA that the goal of raising graduation rates of student athletes is legitimate but challenged the Association's contention that the 820 cut-off bears a "manifest relationship" to this goal. There were four parts to his challenge. First, he argued that the NCAA's evidence indicated a temporal relationship between the implementation of Proposition 16 and improved graduation rates for athletes but fell short of showing causation. The evidence did not distinguish the many variables that



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influence graduation so that the contributory effects of Proposition 16 could be isolated.

Second, the judge observed that the use of the SAT to predict graduation rates was questionable. The test has not been formally validated for that purpose. It has been validated only as a predictor of first-year academic performance. That the NCAA's own research (and the research of others) indicates a stronger or weaker correlation between SAT scores and graduation rates doesn't change the fact that the test is being used for a purpose it wasn't designed for. In the case law arising from Title VI (and from Title VII, the employment antidiscrimination statute which supplies much of the doctrine for Title VI cases), using a test beyond its intended purposes is legally treacherous.

Third, the judge could find in the NCAA's evidence no argument for the 820 score as a "logical break point." Why was this the disqualifying score rather than some adjacent one? The NCAA's reference to informal impressions that scores below 820 indicate reading problems in students wasn't sufficient.

Finally, the judge noted that the NCAA's own evidence showed that partial qualifiers graduate at the same rate as full qualifiers, calling into question the contention that a score of 820 represents a true minimum, below which students are at risk of academic failure.

For these reasons, the judge refused to grant the NCAA's claim that the 820 score was "manifestly

related" to the goal of raising student athlete graduation rates. Moreover, he argued that the plaintiffs would prevail in any case, since they could point to alternative eligibility criteria that would generate less adverse impact while not appreciably degrading achievement of the NCAA's goal—alternatives canvassed in the NCAA's own internal research. According to projections developed by the NCAA, continued use of Proposition 16 would generate a future graduation rate of 61.8 percent for student athletes at the cost of a black ineligibility rate of 19.4 percent. Alternatively, allowing partial qualifiers to become full qualifiers by dropping the full-qualification minimum to 720 would yield a projected graduation rate of 60.7 percent coupled with a black rejection rate of 15.9 percent. A third variation, using a sliding scale of SAT scores between 600 and 1010 pegged to GPAs between 2.75 and 2.0, would produce a graduation rate of 60 percent with 15.7 percent black ineligibility. Finally, eliminating the SAT cut-off altogether would result in a graduation rate of 59.8 percent and a denial of eligibility to 15.6 percent of blacks. The NCAA "has not demonstrated there is anything special about" the 61.8 percent graduation rate, wrote the judge, and so it cannot insist that these alternative practices, which produce less adverse impact on minorities, do not substantially realize its goal.

Thus, the judge found for the plaintiffs and enjoined the NCAA from using Proposition 16, an injunction stayed while the NCAA appeals.

The Real Issues

Legal cases tend to be formulaic; argument must be bent to fit predetermined categories. The judge's opinion in *Cureton* is not only typically formulaic, it is also opaque in important ways. Since the opinion was rendered without trial, relying on submissions by the NCAA and the plaintiffs, it is difficult to decide how much the case turned on the NCAA's defense strategy

and how much on disputable legal theories about the appropriate role of tests.

One thing is clear. The judge's opinion relies entirely on the supposed nexus, or lack of it, between the 820 SAT cut-off score and the graduation rates of student athletes. Yet the real issue in the case has nothing to do with graduation rates. The real issue has to do with gross academic deficiencies.

Proposition 16 and its predecessor arose in a particular context, a context symbolized by a picture that played in every newspaper and on every TV screen in 1982—a picture of 6-foot, 9-inch Kevin Ross, 23 years old, enrolled in a private elementary school. After four years of high school and four years at Creighton University on a basketball scholarship, Ross possessed the language skills of a fourth grader. His basketball eligibility ended, Creighton placed him at Marva Collins's Westside Preparatory School in Chicago to help him learn to read. The Ross incident was not singular or isolated. Other instances of illiterate college athletes came to light in the 1980s. College and university presidents were embarrassed, and rightly so. They set out to prevent such scandals by toughening academic standards for recruitment of athletes. They created Proposition 48 and then Proposition 16.

Now, preventing the corruption of the academy caused by admitting students who cannot read has nothing directly to do with graduation rates, and the NCAA has no real interest in graduation rates as such. Even before Proposition 48, athletes in general graduated at the same rate as regular students. Athletes now graduate at a slightly higher rate, possibly as an upshot of Proposition 16, but as the judge in *Cureton* noted, there is nothing special about a graduation rate of 61.8 percent. Indeed there isn't. Suppose college athletes were graduating at a 55 percent rate rather than a 60 percent rate, but at the same time were all majoring in physics, engineering, philosophy, or French literature and were all exhibiting GPAs 30 percent higher than regular students'. College presidents—and the NCAA—would have cause to rejoice, not to lament.

By linking its justification of Proposition 16 directly to graduation rates, the NCAA severely weakened its ability to defend the 820 SAT cut-off. First, as the judge was quick to point out, the SAT was not designed to predict graduation rates (even though it might actually do so), and the NCAA had been warned on this point by the president of the Educational Testing Service, creator of the test. Second, many factors enter into graduation besides academic ability, making it difficult to show a tight linkage between a particular cut-off score and a particular graduation rate. Third, since student athletes were already graduating at the same rate as regular students, how could the NCAA make a case for the *urgency* of increasing the rate? Although the judge in *Cureton* granted the educational

Civil Society, Democracy, and Civic Renewal

Robert K. Fullinwider, editor

Civil society is receiving renewed attention from academics, politicians, journalists, community leaders, and participants in the voluntary sector. *Civil Society, Democracy, and Civic Renewal* brings together several of America's leading scholars—of history, sociology, political science, and philosophy—to explore the meaning of civil society, its positive and negative effects, its relation to government, and its contribution to democracy.

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legitimacy of the NCAA's putative goal, the lack of a compelling reason why the graduation rate should be at one level rather than another weighed heavily in his opinion. It magnified the gravity of the disparate impact caused by the 820 cut-off (a large cost to achieve a seemingly trivial gain), and it ratified the plaintiffs' alternatives (a 60 percent rate is not seriously worse than 61.8 percent).

Thus, because of its focus on graduation rates, a focus prompted by the NCAA's own defense strategy, the judge's opinion in *Cureton* occluded the real argument—reasonable or not—for Proposition 16. The NCAA has not been insensitive to the effect of Proposition 16 on minorities and to the attendant problem of excluding potential successes; indeed, its own internal research was the basis for the plaintiffs' case. But it sought to balance those evils against another evil, the admission of students entirely unprepared for college-level work—an evil that had been condoned under the system in operation before 1986.

*When it comes to big-time athletics,
colleges and universities don't trust their
own integrity for good reason.*

It is only when the NCAA's educational goal is understood directly in terms of avoiding gross academic deficiencies rather than increasing average graduation rates that the need to strike a balance between two different evils stands in relief. When, instead, the NCAA goal is construed in terms of graduation rates, the character of the trade-off takes on a different appearance. It presents itself as a matter of balancing a substantial evil (adverse impact on minorities) against slight increases in a good (a one or two percentage point gain in overall graduation rates).

Look how the judge compared Proposition 16 and the three alternatives. For each, he listed as a basis for comparison its projected graduation rate, projected black ineligibility rate, and projected black false negatives. Where is the fourth projection, of false positives—those students predicted to succeed but who won't? Consider the alternative that drops standardized test scores altogether and relies only on high school GPAs, an alternative the judge thought plenty good enough. This alternative was the scheme in place before Proposition 48, the scheme that permitted scores if not hundreds of Kevin Rosses on college campuses. Yet the judge projected no false positives from this scheme that might weigh in the balance against the exclusion of potential successes under Proposition 16.

This blindness to the real issue is an artifact of focusing on graduation rates. The desire to avoid the real

damage to academic integrity that comes from admitting students who can't read gets transformed into an unexplained preference for a barely visible increment in graduation rates. The *real* cost of the fourth alternative for determining eligibility, the alternative that dispenses with standardized test scores altogether, is Kevin Ross, who graduated from high school with a "little bit over a C" average.

Suppose, then, that a minimum high school GPA of 2.0 doesn't screen out actually illiterate students. Suppose, further, that the functional illiteracy rate among high school football and basketball players is 25 to 30 percent, as one report suggests, a rate double that of regular students. Suppose, finally, that the intense competition among Division I basketball and football programs drives all institutions to the absolute minimum academic standard of selection. How, then, is the NCAA to prevent illiterate players from populating campuses of higher education? As imperfect as standardized tests are, they can detect gross deficiencies. Kevin Ross's very low score on the ACT in 1978, had Proposition 16 been in place, would have barred his recruitment by Creighton University.

Why must the scandal of illiterate athletes be addressed by an NCAA rule? Why can't individual campuses protect their own integrity? John Thompson sees nothing especially troubling about the loss of Proposition 16. "Institutions can still establish academic standards higher than the NCAA's" if they want to, he argues, "but they're all concerned that some schools will try to seek a competitive advantage. Well, people who believe that are questioning the academic integrity of all the presidents, the deans and the professors. They question the integrity of the student, but they don't trust their own academic integrity." Thompson's reaction betrays a naive conception of the situation confronting the academy. When it comes to big-time athletics, colleges and universities don't trust their own integrity for good reason. Were they not faced with a classic collective action problem in competing for, and with, athletes, there would be no NCAA standards. There would be no recruiting rules, no limit on athletic scholarships, no bar to paying athletes whatever the market will bear, no restriction on training periods, no ban on drugs, no restraint on athletes dealing with sports agents or gamblers. Each college or university would set its own high standards and do the honorable thing. But, of course, the logic of competition undermines this happy scenario. Individual institutions cannot set standards higher than the prevailing norms without suffering competitive disadvantage. The only way a norm—if it is thought to be too low—can be raised is by collective action, by all the institutions together binding themselves to a new rule. There won't be a new norm without an NCAA rule to bring it about.

A Solution?

According to the judge in *Cureton*, the NCAA is free to set any standard it wants—including an 820 SAT minimum score—so long as it actually shows the standard to be “manifestly related” to, and necessary for, a legitimate educational goal. Thus, the NCAA might revisit Proposition 16 and supply stronger evidence that the 820 cut-off enhances athletes’ graduation rates. This appears to be its present course of action. In its

Living Without Philosophy: On Narrative, Rhetoric, and Morality

Peter Levine

In *Living Without Philosophy*, Peter Levine examines how we derive moral lessons from stories. Some theorists argue that any story with a moral meaning must contain—either implicitly or explicitly—general doctrines or principles. If that were true, then we would have to analyze narratives to discover their assumptions, and we would need philosophy to decide whether these assumptions were right or wrong. Levine argues, on the contrary, that narratives can carry moral meanings without relying on general principles. Further, he reveals some of the moral pitfalls that arise when we reason from ethical rules or doctrines. He provides both a philosophical argument for his position and readings of literary texts in which moral theorists are portrayed as characters. These works include Plato’s *Protagoras*, selections from the Gospels and Dante, Boethius’ *Consolation of Philosophy*, Erasmus’ *Praise of Folly*, Shakespeare’s *King Lear*, Nabokov’s *Lolita*, and Martin Luther King’s *Letter from Birmingham Jail*.

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brief filed this summer with the federal court of appeals, the NCAA claims its research now shows a “direct link” between the SAT scores and graduation rates of athletes. At best, however, this evidence will allow the NCAA to prevail on the claim that the 820 SAT cut-off is “manifestly related” to its educational goal, but it won’t establish *necessity*. As long as the NCAA poses its goal in terms of graduation rates, there are other, weaker eligibility rules, producing less adverse impact on blacks, that yield outcomes “substantially similar” to those yielded by Proposition 16.

Better that the NCAA drop the focus on graduation rates. Graduation rates entered the *Cureton* argument in the first place only as a proxy for the real goal—preventing the recruitment of “academically unprepared students”—though the NCAA and the judge both

*Another option gaining favor
among coaches, college presidents, and
NCAA officials is the elimination
of freshman eligibility.*

then immediately substituted the proxy for the goal and proceeded as though the matter at stake were the connection between the 820 cut-off and graduation rates. To defend Proposition 16, the NCAA should specify its goal directly: blocking the recruitment of illiterate students. Then it can argue that the plaintiff’s alternatives *don’t* substantially realize the NCAA’s goal if they allow—as they might—Kevin Rosses to be recruited. Alternatively, in keeping with its goal, the NCAA could drop the SAT altogether and administer its own reading comprehension test to prospective athletic recruits.

Coach Denny Crum of the University of Louisville basketball team suggests that the NCAA can accomplish its goal through already existing “continuing eligibility” standards. But it is hard to see how. These standards require athletes, once admitted to college, to “maintain satisfactory progress toward” a degree. However, they leave the interpretation of “satisfactory progress” up to member institutions and the athletic conferences to which they belong. Presumably, Creighton University had its own “satisfactory progress” standards in place in the early 1980s, but they did not keep an athlete who couldn’t read from spending four years in residence. Kevin Ross accumulated 96 hours of college credit in such courses as first aid, theory of track and field, marksmanship, and introduction to ceramics. To minimize such time-serving, the NCAA now further requires athletes to declare a major by their fifth semester, to have completed 50 percent of their courses in that major by the beginning of their fourth year, and to possess a GPA

at the beginning of their fourth year that is 95 percent of the minimum required by their institution to graduate. Moreover, it requires students to satisfy 75 percent of their course requirements in regular semesters, not summer school or correspondence courses. These requirements block some of the more flagrant deviations from normal academic standards witnessed in the 1980s, but they do not do the work of Proposition 16.

Another option gaining favor among coaches, college presidents, and NCAA officials is the elimination of freshman eligibility. This reform is long overdue in any case, and as a substitute for Proposition 16 it might accomplish some of the latter's aims. Freshmen were not eligible to participate on varsity teams for most of this century. When this norm was abandoned in the 1970s, the change had nothing to do with academic concerns. It derived largely from pressures arising out of developments in college football. With the advent of the two-platoon system in the 1960s, teams needed to carry greatly enlarged squads. Coaches—and college presidents—looked at the quarter of their scholarship athletes who couldn't suit up and saw a way to leverage huge squads without greatly increasing the number—and cost—of scholarships: make those ineligible athletes—the freshmen—eligible to play. The basic consideration today against barring freshman play remains cost: to maintain the current level of competition, teams will need more athletic scholarships. No one advances an *academic* reason for maintaining freshman eligibility; no one advanced an *academic* reason in 1970 for adopting it.

Ending freshman eligibility would obviate the objection to Proposition 16 mounted by John Chaney and John Thompson. They complain that Proposition 16 denies to some disadvantaged kids the chance to prove they can succeed at college work. Let colleges give these kids the chance, then. Let the low-scoring kids show they can succeed at college work by actually succeeding—but at real college work, not at the “bonehead” curriculum served up to Kevin Ross. *Then* let them play ball.

Cozened by the plaintiffs' fallacious argument, the judge in *Cureton* rejected the legitimacy of Proposition 16's 820 cut-off score partly on the grounds that partial qualifiers, who score only 720 on the SAT, graduate at the same rate as full qualifiers. This was proof, he thought, that the 820 score bore no “manifest relationship” to the NCAA's goal of increasing graduation rates. Of course, it is no such proof at all. The academic parity of full and partial qualifiers can just as easily be seen as proof of the wisdom of the NCAA policy of keeping partial qualifiers out of competition their freshman year. It can just as easily stand as evidence that forcing academically weak students to concentrate on the classroom their first year enables them, in

the end, to do as well as those with greater academic strengths who are thrown immediately into the cauldron of big-time competition.

John Chaney thinks Proposition 16 did a disservice to Rasheed Brokenborough. If Proposition 16 hadn't existed, Brokenborough would have suited up immediately for the Temple Owls, without sitting out his freshman year. But how does Chaney know that it wasn't precisely that freshman year free of athletic distraction that allowed Brokenborough to lay the foundation for his ultimate academic success? Proposition 16, in fact, may have saved Rasheed Brokenborough's academic life, even if it required him to pay for his freshman year out of his own pocket. Ironically, Rasheed Brokenborough may be the poster child for freshman ineligibility.

—Robert K. Fullinwider

Sources: Greg Garber, “Turning the Tables on the NCAA,” *GO.com.sports* (March 10, 1999), <www.go.com>; John Chaney, “Losing Proposition,” *New York Times* (March 10, 1999); Welch Suggs, “Fight Over NCAA Standards Reflects Long-Standing Dilemma,” *Chronicle of Higher Education*, vol. 45 (April 9, 1999), <<http://chronicle.com/weekly/v45/i31/31a04801.htm>>; “Letter from Black Coaches Association and Fair Test to NCAA” (June 2, 1998); Robert Klitgaard, *Choosing Elites* (Basic Books, 1985), pp. 91, 96–7, 108; Jean H. Fetter, *Questions and Admissions: Reflections on 100,000 Admissions Decisions at Stanford* (Stanford University Press, 1995), p. 24; James Crouse and Dale Trusheim, *The Case Against the SAT* (University of Chicago Press, 1988), p. 216 and elsewhere (conceding that the use of the SAT along with high school class rank permits slightly more accurate predictions of academic success than use of rank alone); *Cureton v. NCAA*, Civil Action 97–131 (United States District Court, Eastern District of Pennsylvania, 1999); William G. Bowen and Derek Bok, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions* (Princeton University Press, 1998), pp. 59, 65; Edward Menaker, “Casualty of a Failed System,” *New York Times* (October 3, 1982); *Ross v. Creighton University*, 740 F. Supp. 1319 (Northern District of Illinois, 1990); Danny Robbins, “A Question of Responsibility,” *Los Angeles Times* (April 12, 1992); Bill Brubaker, “Minimum Standard, Maximum Dispute,” *Washington Post* (July 25, 1999); “Race Discrimination Lawsuit Filed Against NCAA Test-Score Rules,” *Fair Test Examiner* (Winter 1996–97); Diana Nyad, “How Illiteracy Makes Athletes Run,” *New York Times* (May 28, 1989); Welch Suggs, “NCAA Says It Can Show ‘Direct Link’ in Athletes’ Test Scores and Graduation Rates,” *Chronicle of Higher Education* (July 23, 1999); Tony Barnhart, “Crum’s Reply on Eligibility,” *Atlanta Journal and Constitution* (March 26, 1999); Gordon S. White, “Should Major Colleges Restore Rule for Freshmen?” *New York Times* (November 4, 1980); Craig Neff and Robert Sullivan, “Call for a Fresh Start,” *Sports Illustrated* (December 22, 1986); Curry Kirkpatrick, “The Class of ‘92,” *Sports Illustrated* (November 16, 1988); John A. DiBiaggio, “Don’t Let Freshmen Play,” *Washington Post* (June 22, 1999).

Are We Simple Creatures?

In the philosophical traditions of both the East and the West, one encounters the idea that human beings may attain the good life by satisfying a small number of basic needs. Often this belief finds expression in myths of a golden age that we have lost by allowing our needs and desires to multiply. The Roman author Seneca invokes a simpler past in his articulation of Stoic philosophy:

Was it not enough for man to provide himself a roof of any chance covering and to contrive for himself some natural retreat without the help of art and without trouble? Believe me, that was a happy age, before the days of architects, before the days of builders!

And further:

For the limit everywhere corresponded to the need; it is we that have made all other things valuable, we that have made them admired, we that have caused them to be sought for by extensive and manifold devices. . . . That moderation which nature prescribes, which limits our desires by resources restricted to our needs, has abandoned the field.

The biblical story of the Garden of Eden is, on one level, a story about the incompatibility of the simple life and overreaching human desires. God tells Adam and Eve not to eat from the tree of knowledge of good and evil, but beguiled by the serpent, first Eve and then Adam eat the forbidden fruit. Adopting the perspective of modern critics of consumer culture, we might say that Adam and Eve were seduced by the serpent who is history's first huckster, suckering them into overconsumption. When they had limited desires, they were content. Then the serpent intervened and flashed the shiny fruit; he induced new desires, and with that they got into trouble.

But the story is really more interesting than that. If we read carefully, we see that after the serpent tells Eve that by eating the fruit "your eyes will be opened," and after he assures her that this is really a safe product to consume, Eve comes to her own conclusion: "When the woman saw that the tree was good for eating and a delight to the eyes, and that the tree was desirable as a source of wisdom, she took of its fruit and ate."

Why should Eve have been moved by the tree's being a source of wisdom, and why should she have perceived it thus? The answer is clear. Even in the Garden of Eden, from the very first, as part of the

inherent motivation of humanity, Eve, if not Adam, was a seeker of wisdom. Moreover, it would seem that Eve desired wisdom for its own sake, and not for any instrumental purpose, since, in the Garden, everything was taken care of. Thus we find, within our central myth of our original condition, the image of an interesting and complex human being.

For today's advocates of a less consumption-oriented way of life, it is a question of some importance whether we are, in fact, simple creatures or complex ones. Many people assume that the case for simple living depends on the notion that our *needs* are simple. Are they right? When our desires proliferate, is the process a distortion or an expression of human nature?

Consumption and Self-Esteem

One account of why we consume—an account indebted to Thorstein Veblen's theory of conspicuous consumption—postulates a set of core psychological needs to explain the emergence of our desires for specific commodities. This account calls attention to three features of our psychological and cultural experience.

First, part of what it is to be a person is to be the object of one's own perception; over time, we develop

*How others see us is partially determined
by aspects of our involvement in the economy—
how we consume, what we earn,
what we do for a living.*

a stake in seeing ourselves in particular ways. Second, how we see ourselves is to a considerable extent typically affected by how others see us. And third, to varying degrees in human cultures, how others see us is partially determined by aspects of our involvement in the economy—how we consume, what we earn, what we do for a living.

Clearly, the three features are closely related. The satisfaction of the need to see oneself in a certain way is dependent on how one is seen by others, and the considerations that determine how others will see any individual are to some extent cultural givens. If one

Need

Level 1: Adam has an underlying need for self-esteem.

Level 2: His underlying need for self-esteem thus emerges as a need to be seen by others as valuable.

Level 3: His underlying need for self-esteem now emerges as a need to be seen as valuable by this select group.

Level 4: His need for self-esteem now emerges as a need to satisfy the consumption norms of the reference group.

Level 5: His need for self-esteem is now expressed as a desire for a specific kind of house and style of life.

Level 6: His need for self-esteem is now expressed as a desire for employment that yields income sufficient to have a \$200,000 house.

Psychological/Social Conditions

Context: His self-esteem, like that of most people, is highly dependent on how he is seen by others.

Context: A specific group of people emerges for him as the reference group whose judgment really matters (e.g., parents, colleagues, peers).

Context: The reference group has certain norms with respect to consumption, such that the failure to meet these norms symbolizes failure, lack of decency, inadequacy.

Context: The reference group's definition of "decency" and "adequacy" mandates living in houses with certain minimal conditions (e.g., a "good" neighborhood, at least two baths, a bedroom for each child, and a large kitchen).

Context: Market conditions price such houses at \$200,000 or more. His ability to attain these financial resources is dependent on his employment.

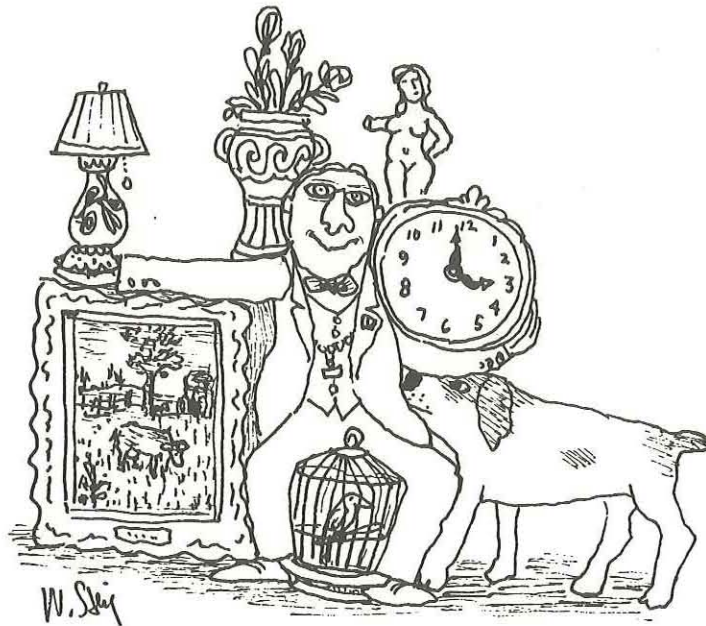
internalizes these cultural norms, then even the actual perceptions of others may drop out of the equation, as one perceives oneself through the eyes of the culture or subculture. And finally, to the extent that these norms include particular consumption choices, the underlying need for self-esteem will be transformed into desires for specific marketplace commodities.

The diagram above illustrates this process for a modern-day Adam, portraying the context in which the need for self-esteem will be transformed. If we retrace the stages of the process from Adam's perspective, we can say that his need for self-esteem first emerges as a need to have others see him as valuable. Once these "others" become identified with a select reference group, the need for self-esteem emerges as a need to satisfy the consumption norms of that group, and then as a desire for a specific kind of house and style of life. In our example, the process reaches a

(temporary) culmination when Adam's need for self-esteem is expressed as a desire for employment that yields income sufficient to have a \$200,000 house.

My description of this process does not at first mention desires; the starting point is the need or drive for self-esteem. The individual typically is not conscious of such a need, and its existence is not dependent on his awareness of it. To say that Adam has a need for self-esteem is to say that, on a very basic level, something will go seriously wrong in his life if he fails to develop it. How this fundamental, and perhaps universal, need gets transformed into a desire for certain kinds of jobs, or for a multiplicity of consumer goods, is a matter of social and economic context.

As the underlying need becomes more concretely related to actions that Adam can actually take to satisfy it (or that he believes will satisfy it), it emerges more fully as a conscious desire. And this desire may



Possessions are part of the self.

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now be expressed in plans and intentions. For instance, in order to obtain a particular kind of job, Adam may seek to go to law school, and in order to get into law school he may seek to do well as an undergraduate. This desire, in turn, may proliferate into a thousand more concrete desires—to do well on a test, to get to class on time, to finish his assignments, and so on.

This account of transformations in the human need for self-esteem leaves many questions unanswered. Still, it is useful in allowing us to distinguish among the levels at which different anticonsumerist orientations throughout history have tried to intervene in the process by which desires for money and commodities shape human life. Thus, the Stoic tradition, with its emphasis on individual self-sufficiency, might be understood as an effort to prevent the general need for self-esteem from becoming a need for the approval of others (level 2). Buddhism might be thought of as intervening on an even more basic level, whereby the sense of self is so utterly changed that the need for self-esteem is itself extinguished (level 1). And the creation of utopian communities, including nineteenth-century experiments such as Brook Farm, might be thought of as an attempt to substitute a different subculture as the reference group (level 3).

As these examples suggest, the recognition that deep needs may be transformed into desires for goods and

services has a long history. Nonetheless, there are reasons to doubt that the need for self-esteem is *the* basis for consumer culture. When people adopt the consumption patterns of their reference group, they are not always motivated by status considerations. As Judith Lichtenberg has noted, our peers may simply be sources of information about new products, and these products may satisfy legitimate needs that are entirely distinct from our need for self-esteem. In thinking about whether we are complex or simple creatures, we must now ask what some of these other needs might be.

The Marketeers

I will begin with a book that was written explicitly for what the authors call “marketeers”—that is, people who specialize in getting consumers to want to buy specific products. In *Why They Buy: American Consumers Inside and Out*, the authors take a remarkably fine-grained approach to human psychology, identifying some sixty specific needs. These include: to be visible to others, to accomplish difficult tasks, to give care, to play, to establish one’s sexual identity, to exercise one’s talents, to win over adversaries, to see living things thrive, to learn new skills, to be amazed. Having presented this list, the authors then identify the kinds of goods that “serve each kind of need.”

Their advice is that if you want to succeed in marketing, it is essential to know your consumer, to understand what his needs are, and to know what needs your product serves. The marketeers are told that it is important for them to "instill purchase incentives in the minds of potential buyers" by "teaching consumers about what they will get" from a product in terms of need fulfillment.

Although one might want to challenge either the legitimacy or the very existence of some of the needs on the list, for the most part they do seem real, important, and valid. Moreover, even this enumeration, which is the most extensive I have seen, is clearly not exhaustive. For example, the authors do not include a need for insight into oneself, or the need for meaningful work, nor do they include a need for beauty or adventure, or a need for a comprehensive vision of life.

Considering a list of this kind, whatever its source, is very instructive. For one thing, it may prompt us to realize that, independent of market manipulations, we do have abundant and diverse needs and desires, and that certain of these needs can be met by goods and services that the marketeers promote.

In saying this, I do not mean to suggest that marketeers are not guilty of manipulation. Advertisers typically encourage us to satisfy some needs at the expense of others. They exaggerate their product's capacity to meet a legitimate need, and frequently make use of nonrational processes to induce us to associate their product with a desired outcome. But for our purposes here, the critical point is that the marketeers are surely right to assert the existence of a varied, substantial set of legitimate human needs. Given this fact, how should advocates of simpler living respond?

Arguments for Simple Living

There are a number of persuasive responses, none of which rests on viewing human beings as simple creatures.

First, when it comes to our most fundamental needs—for love, meaning, friendship, self-expression, understanding—commodities may, in the marketeers' terms, be "of service," but they rarely supply the genuine article. Often enough, they merely divert us from the fact that the essential need is not being fulfilled, or else provide a spurious compensation for it. At best, commodities may offer a symbolic or false taste of the real thing.

To say this, though, is not to deny their importance. Finding genuine satisfaction for our needs is not easy, and most people are at best only partially successful in this search. In a world where much depends on chance, and in which not everyone develops the human capabilities to attain the genuine article, the second-best fulfillments that money provides may be of substantial

Graceful Simplicity: Toward a Philosophy and Politics of Simple Living

Jerome M. Segal

In *Graceful Simplicity*, Jerome M. Segal expands and deepens the contemporary discourse on how to achieve a simpler, less harried way of life. He articulates a powerful conception of simple living—one rooted in beauty, peace of mind, appreciativeness, and generosity of spirit. At the same time, he criticizes much of the "simple living movement" for believing that we can realize this conception as isolated individuals if only we free ourselves from overconsumption. Segal argues that, unfortunately, we have created a society in which human needs can be adequately met only at high levels of income. Instead of individual renunciation, he calls for a politics of simplicity that would put the facilitation of simple living at the heart of our approach to social and economic policy.

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value. On the other hand, once we recognize the second-best nature of the comforts that the marketplace provides, we can insist that these should not be the objects of our ultimate aspirations.

Second, even when the purchase of goods and services can satisfy our needs, the fulfillment may come at an extremely high personal and social cost. Consumption requires income—which in turn, for most of us, requires labor. And labor is costly in two ways. For many people, labor beyond a certain point is unpleasant, painful, unhealthy, or boring. And even where it is not, labor takes time—time to prepare for, time to get to, time to perform, time to return from, and time to recover from. Yet the amount of time we have is relatively fixed. Time we devote to acquiring the means of consumption is time that we do not have for other aspects of life. This fact alone makes the case for simple living enormously compelling. If we have a choice between high-consumption and low-consumption ways of meeting our legitimate needs, it makes sense for us, individually and collectively, to pursue the latter course.

This leads to my final point. Once we recognize the variety of human needs, we can begin to imagine lives that partake of diverse forms of richness: material, intellectual, spiritual, aesthetic, and social. In other words, we can see that genuine wealth resides in an extraordinarily broad range of “assets,” the possession of which determines whether our abundant needs will be fulfilled.

- *social relationships*: our friendships, loves, and families

- *psychological capabilities*: our ability to build relationships, to find meaning, to take aesthetic pleasure
- *cognitive capabilities*: our ability to read, to understand, to learn, to reason
- *creative capabilities*: our ability to make something beautiful, to contribute something different
- *political rights*: our ability to be a citizen of one country rather than another, to build our own lives according to our own lights
- *historical and cultural legacy*: the riches of insight and experience that have been preserved from previous human lives and that are embodied in the great achievements of human culture
- *natural and man-made physical environments*: the beauty of great cities, of the wilderness, of the view from one's back porch

Material wealth is not irrelevant, but its role in the good life is largely to facilitate our access to these other forms of wealth. As the great philosophers have long told us, excessive concern with consumption often thwarts our efforts to realize the multiple possibilities of our nature. Advocates of simple living best advance their cause when they remind us of those possibilities, not when they ask us to believe that human beings are simple creatures.

—Jerome M. Segal

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Reconciliation for Realists

As the millennium draws to a close, there appears to be a global frenzy to balance moral ledgers. Talk of apology, forgiveness, and reconciliation is everywhere. The Canadian government recently made a “solemn offer of reconciliation,” backed up by a \$250 million “healing fund,” to that country's 1.3 million Aboriginal people; Australians lined up to put their names in a “sorry book” offering personal apologies for an earlier state policy that removed Aboriginal children from their families; and President Kim Dae Jung formally accepted Japan's written apology for harms caused during its 35-year occupation of South Korea. In what may be the most familiar example, South

Africa's Truth and Reconciliation Commission (TRC) held extensive public hearings about abuses committed during the apartheid era, issued a final report, and continues to rule on petitions for amnesty from former security officials and African National Congress members who have confessed to politically motivated crimes.

While such efforts may seem laudable, it remains unclear whether they constitute a just or adequate response to the historical injuries they seek to address. The problem resists solution, in part, because as a moral and political concept, *reconciliation* raises inherently difficult questions. For example: Is reconciliation

the end-state towards which practices of apology and forgiveness aim, or is it a process of which apology and forgiveness are merely parts? Can reconciliation occur *without* apology and forgiveness? By what social or institutional means is it to be achieved, and under what conditions should it be sought? Curiously, given the frequency with which the term is used, we lack any clear account of what reconciliation is, or what it requires.

Despite this, reconciliation continues to be urged upon people who have been bitter and murderous enemies, upon victims and perpetrators of terrible human

The rhetoric of reconciliation is particularly common in situations where traditional judicial responses to wrongdoing are unavailable.

rights abuses, upon groups of individuals whose self-conceptions have been structured in terms of historical and often state-sanctioned relations of dominance and submission. The rhetoric of reconciliation is particularly common in situations where traditional judicial responses to wrongdoing are unavailable because of corruption in the legal system, staggeringly large numbers of offenders, or anxiety about the political consequences of trials and punishment.

A natural worry, then—one exacerbated by the use of explicitly therapeutic language—is that talk of reconciliation is merely a ruse to disguise the fact that a “purer” type of justice cannot be realized. Until we have a clearer conception of what reconciliation is, we cannot know whether it is right—or even morally desirable—to pursue it.

Familiar Cases

At first blush, reconciliation seems a heterogeneous concept. We speak of old friends wanting to be reconciled after a fight, of a person being reconciled to the onset of a chronic illness. Throughout the United States, victim-offender reconciliation programs have been developed to bring together criminals and their victims. In still other cases, reconciliation is attempted between groups of people, as in the example of South Africa. In general, we can usefully distinguish between micro-level and macro-level reconciliation, where the former typically involves local, face-to-face interactions—say between two friends—and the latter concerns more global interactions between groups of people, or nations, or institutions, which are often mediated by proxy.

Reconciliation has both forward- and backward-looking dimensions. The reconciliation of estranged

friends involves their past loyalty to each other as well as a mutual desire to repair their relationship and to maintain it into the future. When Archbishop Desmond Tutu advocates racial reconciliation in South Africa, he combines a tragic understanding of that country’s history with a sincere commitment to building a new society.

Reconciliation can be motivated by a variety of factors. Friends want to continue a desirable relationship in spite of some nastiness between them. National leaders and citizens in South Africa and other places long for a peaceful and more just future. The victim of a crime may decide to meet the person who stole precious objects from her in the hope that such an encounter will bring her psychological peace.

Crucial as such motivations are, it is clear that people can also have *moral* reasons for pursuing reconciliation. In the case of estranged friends, we may assume that one of the duties of friendship is the willingness to attempt reconciliation in the wake of upset. In other situations, most notably those like South Africa, the moral reasons for pursuing reconciliation will be grounded in a more transcendent or “distant” good—for example, respect for human dignity and human rights, or the value of a yet-to-be-realized *civic* friendship.

It is not always easy to distinguish moral from non-moral motivations for human action, and in appeals for reconciliation, the relation between them is often misconceived. For example, while features of human

People can have moral as well as psychological reasons for pursuing reconciliation.

psychology bear directly on the *desirability* of reconciliation, the mere fact that reconciliation would bring psychological peace does not provide a moral *imperative* for attempts to reconcile. On the other hand, to the extent that human psychology determines whether reconciliation is even *possible* in certain circumstances, it is relevant to the question of whether reconciliation is morally required.

Some people appear to have remarkable capacities to put the past behind them and move on. But just how much can we reasonably expect of an average person whose loved ones were killed by the state? Most recent calls for reconciliation, particularly between nations and their violent pasts and between groups of victims and victimizers, imply that seeking reconciliation is the morally right thing to do. But the obligatoriness of reconciliation—either at the micro- or the macro-level—would appear to be defeated

when interpersonal reconciliation is psychologically impossible.

An account of reconciliation, then, must capture a wide variety of cases and provide resources for making assessments about the psychological possibility and moral necessity of engaging in reconciliation. I believe such an account can be given. But seeing what it is requires stepping outside the socio-moral domain briefly to consider reconciliation in another light.

Seeking Coherence

When confronted with two apparently incompatible but attractive positions or two apparently mutually inconsistent but individually plausible propositions, we often speak of the need to reconcile them. A great deal of intellectual labor may go into the description of such tensions and attempts to alleviate them. We see that adopting position A rules out adopting position B, that p and q cannot be true together, and so on. Reconciliation can

Understanding, intelligibility, and coherence are important features of human lives, and we care when they are threatened.

then take a number of forms: maybe proposition p isn't as plausible as it first appeared, and we can reject it without loss; or perhaps a more complete grasp of positions A and B will show them to be compatible after all. Presupposed in all this is a commitment to a normative ideal—usually truth, but sometimes mere logical consistency. If truth and consistency didn't matter to us, such efforts at reconciliation would be unjustified and unmotivated. Reconciliation is not something we seek for its own sake. And any *imperative* to attempt reconciliation will depend on the existence of normative ideals to which we are independently attached.

I suggest that we think of human reconciliation quite generally in terms of *tensions*—tensions between two or more beliefs; tensions between two or more differing interpretations of events; or tensions between two or more apparently incommensurable sets of values—and our responses to them. Here, the regulative ideals are not exactly truth and logical consistency. Rather, they have to do with understanding, intelligibility, and coherence. These are important features of human lives, and we care when they are threatened. My claim is that such considerations serve to ground a comprehensive notion of reconciliation.

Human lives are led narratively. A person's self-conception, along with her conception of the world around her and of her place in it, is usefully understood in terms of the relevant stories she constructs. Her past

actions and experiences, her current relationships, her hopes and fears about the future, are facts about a person that together make up the story of her life. It is against this cumulative but relatively stable background that her life is rendered intelligible, from the inside as well as from the outside. At the same time, we rely heavily on the tacit assumption that the lives of others also have narrative unity. Expectations and trust between us could not exist otherwise. You cannot depend on, let alone befriend, an individual whose life exhibits no reliable pattern.

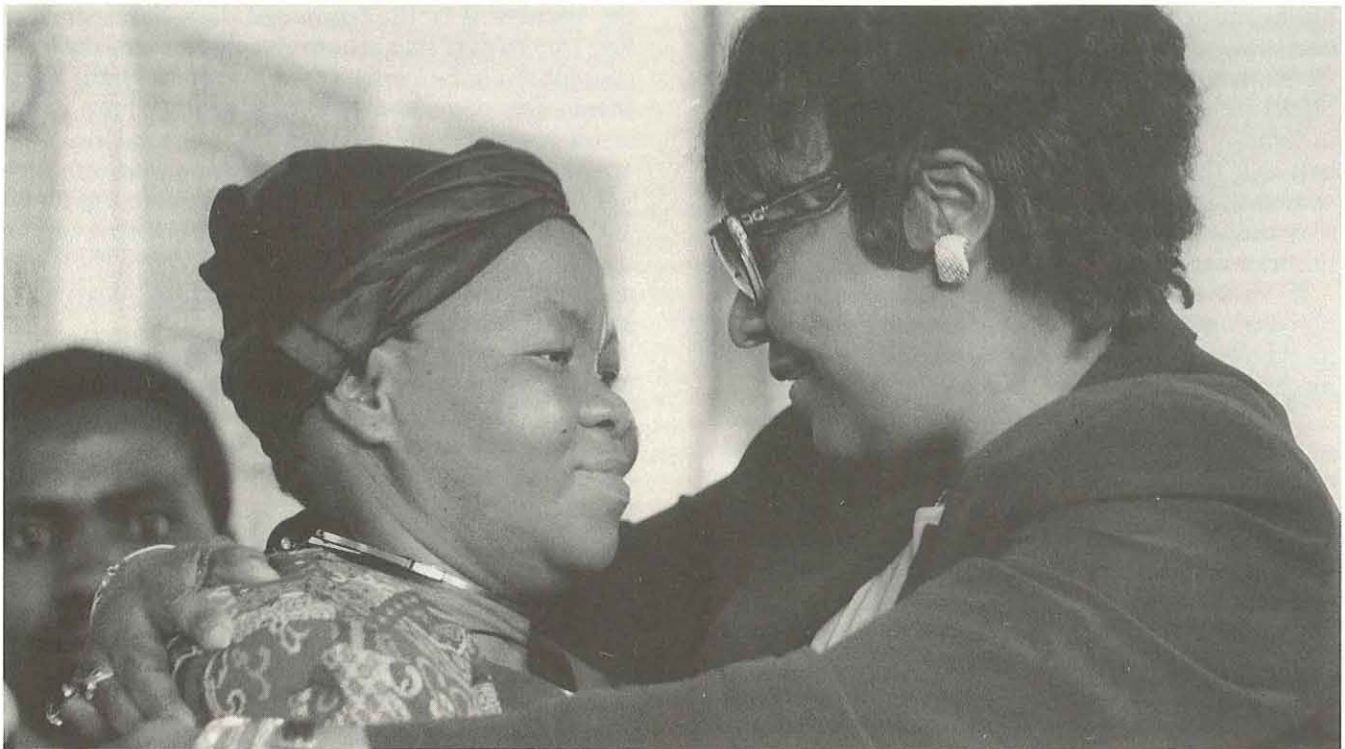
But certain things can and do disrupt this coherence. There is betrayal among friends; a person arrives at a painful realization about his career prospects; another becomes the victim of a random crime. Such events and experiences challenge deeply held beliefs, sometimes in profound ways. A woman might think that she "really knew" her lover; part of her self-understanding was tied up with being his partner. But his recent treachery throws into doubt the meaning of their past relationship, thus threatening her sense of self. The diagnosis of an illness or disability can rob a person of a particular projected future. Where the anticipation of such a future has guided and shaped her past and present actions, the person may have to engage in a wholesale reevaluation of her life and priorities.

We can never undo such disruptions; they are, quite literally, facts of life. But, especially when they are severe, our continued well-being—perhaps our very existence—depends on our being able to incorporate them into our personal narratives. For persons constituted as we are, self-understanding, understanding others, being understood by others, and achieving a

We can see not only why people can be motivated to pursue reconciliation, but why reconciliation is of deep moral significance.

degree of coherence and stability in our lives are all matters of considerable importance. Our desires for understanding are fundamental; to call them basic human needs would not be an overstatement. Hence we can see not only why people can be motivated to pursue reconciliation, but why reconciliation is of deep moral significance.

However, the moral significance of reducing tensions in personal narratives does not imply that all such tensions are bad, or that reconciliation aims at the *elimination* of tensions. Some tensions—for example, those that stem from the recognition of our fallibility—help keep us honest, and others might be worth cultivating insofar as they provide the impetus and sustain-



Joyce Seipei, left, mother of slain 14-year-old activist Stompei Seipei, is hugged by Winnie Mandikizela-Mandela, right, at a Truth and Reconciliation Commission hearing in Johannesburg, South Africa, December 4, 1997. During her testimony before the TRC, Mandikizela-Mandela denied charges that she had ordered Stompei Seipei's death. (Associated Press photo/Adil Bradlow)

ing force for creative efforts. The sort of tensions that rightly trigger calls for reconciliation are ones that result from severe identity-threatening disruptions to ongoing narratives. But even in these cases, I am recommending that reconciliation be understood as the incorporation—not as the erasure—of such tensions. The tensions may need to be kept in view; the objective is to find a way to live with that.

Moreover, the moral significance of reducing tensions in personal narratives does not entail that reconciliation (morally) ought to be pursued no matter what. Despite the fact that human welfare depends on the ability to maintain (minimally) coherent individual life narratives, reconciliation as incorporation is not morally obligatory. Ought implies can, and individual psychological capacities may render reconciliation impossible for some.

The Narrative of a Nation

By construing reconciliation in terms of incorporation, we seem to discover what is common across a range of cases at the micro-level. But how well does the account do at the macro-level? Can it help us evaluate projects like the TRC in South Africa?

We may suppose, not implausibly, that groups, communities, and nations have autobiographies, too. Just as individual narratives are constructed around self-understanding, hopes, fears, and the like, the narrative of a community or nation is structured around its culture, ethnic identity, national spirit and aspirations. And, again paralleling the personal case, these elements form the basis for intergroup relations and expectations.

Granting all this, we can say that larger-scale narratives suffer disruptions as well. Although “disruption” seems obscenely inadequate as a description of the events in Rwanda or Kosovo, the central idea is the same: the continued well-being, or the very survival, of a community or nation depends on how it manages to incorporate and accommodate these disturbances and challenges to its prevailing narrative self-understanding.

Of course, not all disruptions are negative. South Africa appears to be a case in point. Though the TRC was devoted to the investigation of abuses during the apartheid regime, the complex event that precipitated its establishment was the *downfall* of apartheid. In contrast to the case of a friend's betrayal, the disrupted narrative here is one of racial separation, radical inequalities, and violence. Reconciliation between

blacks and whites in South Africa seems to involve the discontinuation of one story in favor of starting another. Given that the very identity (self-conception) of many blacks and whites in South Africa has been constructed in terms of oppressed and oppressors, the dissonance between these prior narratives and proposed post-apartheid stories of non-racialism and social equality may preclude the possibility of coherently continuing the prior narratives.

To see that the model of reconciliation as incorporation *does* apply to the South African context, it will help to sketch the mechanisms of reconciliation, as the model conceives of it.

The core notion is that of bringing apparently incompatible descriptions of events into narrative equilibrium. Hence the first thing that parties to reconciliation will require is a clear view of those events. At this stage, only the barest of facts—who did what to whom when—are relevant. The second stage involves the articulation of a range of interpretations of those events. Finally, parties to the reconciliation attempt to choose from this range of interpretations some subset that allows them each to incorporate the disruptive event into their ongoing narratives. It is not required that all parties settle on a single interpretation, only that they are mutually tolerant of a limited set of interpretations. Sometimes this process will require the revision of aspects of the preexisting narrative; under pressure to make sense of a recent event, a person may come to reinterpret some much earlier experiences. At base, the task is to move beyond the mere statement of agreed-upon facts, and toward mutually acceptable interpretations of those events.

In South Africa, then, reconciliation of the kind I have described would appear to involve the construction of a coherent narrative that encompasses both the atrocities of apartheid *and* the hope for a peaceful, respectful coexistence of political equals. Is this possible?

Arriving at such an accommodation need not and perhaps should not involve the excusing of a wrong. It might, but need not, involve an apology and an offer of forgiveness. Whether an apology is called for is precisely one of the topics up for discussion. Thus, reconciliation and forgiveness are conceptually distinct, even if they often go together.

Obstacles to Reconciliation

Many obstacles to reconciliation suggest themselves. First, as I have already noted, the history between blacks and whites in South Africa is not a history of friendship; it is a tale of mutual hatred, suspicion, and distrust. Second, in an all-encompassing oppressive regime like apartheid, individuals' identities are often constructed in terms of whether they are members of

the oppressing or the oppressed class. So, reconciliation may require that people give up fundamental self-conceptions or face some very unwelcome truths about themselves. Consider the black youth whose entire self-understanding has been built around resisting apartheid; or the white businesswoman who, although not an active oppressor, never objected to apartheid and comforted herself with the thought that the system couldn't really be that unjust. In such cases, the scope and depth of narrative revision required may be too great for some individuals.

Third, individual blacks and whites simply might not feel that, *in their own cases*, there is any tension to be resolved. The disruption of a friendship immediately gives rise to a tension; our current feelings or beliefs about the friend are at odds with those we once held. But the official dismantling of apartheid could not by

*Reconciliation may require that people
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itself cause the formerly oppressed suddenly to see their former oppressors in a fundamentally different light. Only if an individual wishes so to see another will she experience a tension of the sort toward which reconciliation is properly directed. Hence, reconciliation between individuals will be possible only in some cases: where people have particular desires about their future relationships, where actions manifest the sincerity of these desires, and where people are able to engage in face-to-face encounters that facilitate the negotiation of acceptable interpretations of events.

My claim is only that reconciliation will be *possible* in such conditions, not that it will be inevitable. And often these conditions cannot be met. But it would be precipitous to infer that talk of reconciliation between groups makes no sense. Consider, for example, a remark of the late Marius Schoon, an Afrikaner opponent of apartheid whose wife and daughter were killed by a terrorist bomb: "On the whole, I'm in favor of the Truth and Reconciliation Commission. I think it is going to bring about national reconciliation. In my case, it's not going to bring about personal reconciliation." It is as if Schoon could imagine the narrative of his country being revised in ways that his own personal story could not be.

Imaginable Futures

Nonetheless, reconciliation, even at the macro-level, should not be touted as aiming at the happy and harmonious coexistence of former enemies. It's one thing

to achieve some measure of narrative coherence in the face of atrocity; it's quite another to come to love one's torturer. Any conception of reconciliation that makes reconciliation dependent on forgiveness, or that emphasizes interpersonal harmony and positive fellow-feeling, will fail to be a realistic model of reconciliation for most creatures like us. If we care about reconciliation, let us advocate it in terms that make it credible to the relevant parties.

It is worth stressing, too, that in difficult cases a person's word is unlikely to be enough to secure reconciliation. When calls to reconcile issue from national or international political leaders, they must be backed up by concrete plans for a variety of supporting measures—for example, economic, health, and educational initiatives. Such measures are to be developed not as *compensation* for past wrongs, but rather as explicit demonstrations that a different future is now imaginable.

Unlike fictional narratives, which usually have distinct temporal bounds, the stories of our lives are open-ended. Hence, judgments of coherence are indeterminate. A person's (or a nation's) past is done. Some revision of interpretation is possible, but only so much can be altered without destroying the narrative in question. (One might say that too much revision is tantamount to writing the history of a different person or nation.) Attempts to coherently incorporate new beliefs and attitudes will be limited in this way. Nonetheless, what might seem anomalous now can make perfect sense later. The attempt by black South Africans to see white South Africans as *having been* oppressors and *being* fellow citizens is not impossible. As that society achieves greater justice and equality, those who focus on one or the other of the apparently mutually exclusive descriptions will be failing to grasp the whole truth. Here it is useful to recall that reconciliation as incorporation does not require elimination of the tension that triggers it.

Conclusion

I have suggested that reconciliation is fundamentally a process whose aim is to lessen the sting of a tension: to make sense of injuries, new beliefs, and attitudes in the overall narrative context of a personal or national life. Reconciliation is guided by normative ideals of

intelligibility, coherence, and understanding; and the mechanisms of reconciliation I have described are, broadly speaking, epistemological, in the sense that they are strategies of narrative revision.

This understanding of reconciliation applies at the micro- and macro-levels. It makes the application of the concept appropriate, even in circumstances where there is no prior positive relationship to be restored. In this sense, reconciliation does not pretentiously masquerade as *wiedergutmachung*—making things good again. Coherent incorporation of an unpleasant fact, or a new belief about an enemy, into the story of one's life might involve the issuance of an apology and an offer of forgiveness. But it need not. Reconciliation, as I have presented it, is conceptually independent of forgiveness. This is a good thing. For it means that reconciliation might be psychologically possible where forgiveness is not.

Of course, nothing I have said rules out the misappropriation of the concept of reconciliation by politicians and others. Governments will always attempt to hide their inactivity behind positive-sounding therapeutic language. But I hope to have shown that reconciliation need not be a mere consolation prize for individuals and nations in the aftermath of violence and oppression. If this is less than some advocates of reconciliation would like, perhaps that is because of their tendency to talk of reconciliation in abstraction from the kind of reconciliation we humans can and do engage in.

—Susan Dwyer

Susan Dwyer, associate professor of philosophy at the University of Maryland Baltimore County, is the editor of *The Problem of Pornography* (Wadsworth, 1995) and the author of papers in moral psychology, epistemology, and feminist theory. A longer version of this essay has appeared in *Ethics and International Affairs*, vol. 13 (1999). Sources: Suzanne Daley, "South Africa Commission Grants Amnesty for Two Apartheid Cases," *New York Times* (August 6, 1999); Gay Becker, *Disrupted Lives: How People Create Meaning in a Chaotic World* (University of California Press, 1997); Donald J. McNeil, Jr., "Marius Schoon, 61, is Dead; Foe of Apartheid Lost Family," *New York Times* (February 9, 1999).



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